



**COMMISSIONER OF SECURITIES  
STATE OF GEORGIA**

**UNIFORM ACT IMPLEMENTATION ORDER 2009-05**

**ORDER ESTABLISHING BROKER-DEALER POSTREGISTRATION REQUIREMENTS  
1973 Act Reference: Rules 590-4-2-.01-.04 and 590-4-2-.13**

The Commissioner of Securities for the State of Georgia (the "Commissioner") has determined that:

- (1) On July 1, 2009, the Georgia Securities Act of 1973 (the "1973 Act") was repealed by act of the Georgia General Assembly and that the Georgia Uniform Securities Act of 2008 (the "2008 Act") became effective on this same date.
- (2) Establishing post-registration requirements for broker-dealers is in the public interest and is consistent with the purposes of the 2008 Act.
- (3) Pursuant to Section 10-5-40 of the 2008 Act, the Commissioner has the authority to establish post-registration requirements for broker-dealers.

In accordance with the above, the Commissioner ORDERS that:

**(A) Financial Requirements**

Any broker-dealer that is not registered with the U.S. Securities and Exchange Commission, is not a member of FINRA, or is not a member of any national securities exchange registered with the U.S. Securities and Exchange Commission must have sufficient assets to meet its obligations as they mature. A broker-dealer will be considered to have sufficient assets to meet its obligations as they mature if:

- (1) in the case of a broker-dealer who proposes to buy and sell securities or hold securities for the account of customers:
  - (a) has not less than \$15,000 net worth and not less than \$15,000 in liquid assets; or
  - (b) is subject to and in compliance with the net capital rules of the U.S. Securities and Exchange Commission; or
  - (c) is exempt from the net capital rules of the U.S. Securities and Exchange Commission by virtue of membership in an exchange and is in compliance with the net capital rules of the exchange;
- (2) in the case of a broker-dealer who proposes only to sell securities and will not hold securities for the account of customers, has not less than \$5,000 net worth and not less than \$5,000 in liquid assets.

(B) Financial Reports

(1) Any broker-dealer that is registered with the U.S. Securities and Exchange Commission, is a member of FINRA, or is a member of any national securities exchange registered with the U.S. Securities and Exchange Commission that fulfills the reporting requirements of the U.S. Securities and Exchange Commission, FINRA, or national securities exchange, as it is required, shall be deemed to be in compliance with the reporting requirements of the 2008 Act. Any broker-dealer not meeting this description is required to perform the following:

(a) Upon renewal of registration, broker-dealers must file a dated balance sheet within 90 days prior to the date of filing. This balance sheet need not be certified. If the balance sheet is not certified, there shall be filed in addition a certified balance sheet as of a date within one year of the date of filing unless the fiscal year of the applicant has ended within 90 days prior to the date of filing, in which case the balance sheet may be dated as of the end of the preceding fiscal year. These balance sheets shall be prepared in accordance with generally accepted accounting principles and certified by an independent public accountant duly registered and in good standing under the laws of the place of his or her residence or principal office.

(b) Report to the Commissioner any instance in which the broker-dealer is unable to meet a financial obligation as it matures.

(c) Report to the Commissioner any failure to maintain the financial position set forth in Subsection A of this Order or, if the Commissioner has accepted some indicia other than that of Subsection A of this Order as a demonstration of a broker-dealer's ability to meet its financial obligations as they accrue, any failure of the broker-dealer to maintain that indicia.

(d) Report to the Commissioner the occurrence of any event that materially increases the probability that the broker-dealer will be unable to meet its obligations as they mature.

(e) In the event the broker-dealer is not required to report disciplinary events to the Central Registration Depository, report to the Commissioner the occurrence of any of the following:

(i) the initiation of any disciplinary, administrative, or civil or criminal action against the broker-dealer or any principal officer of the broker-dealer by any national organization of securities broker-dealers, any securities exchange, or any state or federal agency; or

(ii) the receipt of service of process in any civil complaint or arbitration alleging fraud or any violation of any state or federal securities act filed against the broker-dealer or any principal officer of the broker-dealer.

(2) The reports required by Paragraphs (1)(b)-(d) of this Subsection shall be accompanied by the most accurate statement of financial conditions that is currently available to the broker-dealer. The broker-dealer must supplement the statement as soon as possible with a report containing the financial information required by Article 4 of the 2008 Act and any additional information that the Commissioner may require.

(3) The report required by Paragraph (1)(e) of this Subsection shall be accompanied by a copy of any notice, order, pleading, indictment, accusation, or similar legal document that the broker-dealer has received in the case.

(4) Any broker-dealer who fulfills the reporting requirements of the Central Registration Depository shall be deemed to be in compliance with the reporting requirements of the 2008 Act, any rules promulgated thereunder, and this Order.

(C) Recordkeeping

(1) All broker-dealers that are registered or required to be registered with the U.S. Securities and Exchange Commission or are members of FINRA or any national securities exchange registered with the U.S. Securities and Exchange Commission shall make, keep, and preserve all records as the U.S. Securities and Exchange Commission, FINRA, and national securities exchanges registered with the U.S. Securities and Exchange Commission require be made, kept, and preserved. These records shall be subject to inspection by the Commissioner. The records of a broker-dealer registered or required to be registered under Article 4 of the 2008 Act are subject to reasonable periodic or special inspections by a representative of the Commissioner as she considers necessary or appropriate in the public interest and for the protection of investors. An inspection may be made at any time and without notice. The Commissioner may copy and remove any record that she reasonably considers necessary or appropriate to conduct the inspection as Section 10-5-40(d) of the 2008 Act specifies.

(2) Broker-dealers that are not registered with the U.S. Securities and Exchange Commission, are not members of FINRA, or are not members of any national securities exchange registered with the U.S. Securities and Exchange Commission shall make and keep the following records:

(a) Blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all other debits and credits. These records shall show the account for which each transaction was effected, the names and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the names or other designation of the person from whom purchased or received or to whom sold or delivered.

(b) Ledgers (or other records) reflecting all assets and liabilities, income and expenses, and capital accounts.

(c) Ledger accounts (or other records) itemizing separately, as to each cash and margin account of every customer, and, of the broker-dealer and partners thereof, all purchases, sales, receipts, and deliveries of securities for the account and all other debits and credits to the account.

(d) Ledgers (or other records) reflecting i) securities in transfer; ii) dividends and interest received; iii) securities borrowed and securities loaned; iv) money borrowed and money loaned (together with a record of the collateral therefore and any substitutions in the collateral); and v) securities failed to receive and failed to deliver.

(e) A securities record or ledger reflecting separately for each security, as of the clearance dates, all "long" or "short" positions (including securities in safekeeping) carried by the broker-dealer for its account or for the account of its customers or partners showing the location of all securities "long" and the offsetting position to all securities "short" and in all cases the name or designation of the account in which each position is carried.

(f) A memorandum of each brokerage order and of any other instruction given or received for the purchase or sale of securities whether executed or unexecuted. This memorandum shall show the terms and conditions of the order or instruction and of any modification or cancellation thereof, the account for which the order or instruction was entered, the time of entry, the price at which the order or instruction was executed, and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise of discretionary power by the broker-dealer, or any employee thereof, shall be so designated. The term "instruction" shall be deemed to include instructions between partners and employees of a broker-dealer. The term "time of entry" shall be deemed to mean the time when the broker-dealer transmits the order or instruction for execution, or, if it is not so transmitted, the time when it was received.

(g) A memorandum of each purchase or sale of securities for the account of the broker-dealer showing the price and, to the extent feasible, the time of execution; and, in addition, where the purchase or sale is with a customer other than a broker-dealer, a memorandum of each order received, showing the time of receipt, the terms and conditions of the order, and the account in which it was entered.

(h) Copies of confirmations of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash, and other items for the accounts of customers and partners of the broker-dealer.

(i) A record in respect of each cash and margin account with the broker-dealer containing the name and address of the beneficial owner of the account and, in the case of a margin account, the signature of the owner; provided, however, that in the case of a joint account or an account of a corporation, the records are required only in respect of the person or persons authorized to transact business for the joint account.

(j) A record of all puts, calls, spreads, straddles, and other options that the broker-dealer has granted or guaranteed containing, at least, an identification of the security and the number of units involved.

(k) A record of the proof of money balances of all ledger accounts in the form of trial balances. These trial balances shall be prepared currently at least once a month.

(l) An application for employment executed by each "associated person" as defined below of the broker-dealer that is approved in writing by an authorized representative of the broker-dealer and contains at least the following information with respect to the associated person:

(i) Name, address, social security number, and the starting date of employment or other association with the broker-dealer;

- (ii) Date of birth;
  - (iii) The educational institutions attended and whether the associated person graduated therefrom;
  - (iv) A complete, consecutively ordered statement of all business connections for at least the preceding seven (7) years, including reasons for leaving each prior employment and whether the employment was part-time or fulltime;
  - (v) A record of any denial of membership or registration and of any disciplinary action taken or sanction imposed upon him or her by any federal or state agency or any national securities exchange or national securities association, including any finding that he or she was a cause of any disciplinary action or had violated any law;
  - (vi) A record of any denial, suspension, expulsion, or revocation of membership in any national securities association, securities exchange, or registration with any state, federal, or governmental agency with which he or she was associated in any capacity when the action was taken;
  - (vii) A record of any permanent or temporary injunction entered against him or her or any member of a national securities association or stock exchange, or broker-dealer with which he or she was associated in any capacity at the time the injunction was entered;
  - (viii) A record of any arrests, indictments, or convictions for any felony or any misdemeanor, except minor traffic offenses of which he or she has been the subject;
  - (ix) A record of any other name or names by which he or she has been known or has used; and
  - (x) A record of all licenses, registrations, and memberships related to securities that he or she holds.
- (3) For purposes of Paragraph (2)(1) of this Subsection, the term "associated person" shall mean a partner, officer, director, agent, trader, manager or any employee handling funds or securities or soliciting transactions or accounts for the broker-dealer.
- (4) Broker-dealers that are not registered with the U.S. Securities and Exchange Commission, are not members of FINRA, or are not members of any national securities exchange registered with the U.S. Securities and Exchange Commission shall preserve for a period of not less than five (5) years, the first two (2) years in an easily accessible place, the records required to be maintained by Paragraphs (1) or (2) of this Subsection and the following:
- (a) All checkbooks, bank statements, cancelled checks, and cash reconciliations relating to the business of the broker-dealer;
  - (b) All invoices (or copies thereof) received by the broker-dealer from any other person relating to the business of the broker-dealer, whether the broker-dealer paid the invoice or the invoice is still payable, and, where the broker-dealer has paid the invoice, all records of the payment made;

- (c) All invoices (or copies thereof) sent by the broker-dealer to any other person relating to the business of the broker-dealer, whether the broker-dealer has received any payment from the other person or any part of the invoice is still receivable, and, where the broker-dealer has received a payment, either in full or in part, on the invoice, all records of the payment received;
  - (d) Originals of all communications received and copies of all communications sent by the broker-dealer (including interoffice memoranda and communications) relating to the business of the broker-dealer;
  - (e) All trial balances, financial statements, branch office reconciliations, and internal audit working papers relating to the business of the broker-dealer;
  - (f) All guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any accounts and copies of resolutions empowering an agent to act on behalf of a corporation; and
  - (g) All written agreements (or copies thereof) entered into by the broker-dealer relating to its business, including agreements with respect to any account.
- (5) Broker-dealers that are not registered with the U.S. Securities and Exchange Commission, are not members of FINRA, or are not members of any national securities exchange registered with the U.S. Securities and Exchange Commission that buy and sell securities or hold securities for the account of customers shall preserve for a period of not less than five (5) years after the closing of any customer's account, for the first (2) two years in an easily accessible place, all account cards, records, or other documents that relate to the opening and maintenance of any customer's account, including all records and documents relating to the terms and conditions of the account.
- (6) Broker-dealers that are not registered with the U.S. Securities and Exchange Commission, are not members of FINRA, or are not members of any national securities exchange registered with the U.S. Securities and Exchange Commission that buy and sell securities or hold securities for the account of customers shall maintain and preserve all records with respect to associated persons, as defined in this Order, and all similar records required to be kept by other agencies for a period of at least five (5) years after the employment of the associated person has terminated and he or she has no other connection with the broker-dealer.
- (7) Broker-dealers that are not registered with the U.S. Securities and Exchange Commission, are not members of FINRA, or are not members of any national securities exchange registered with the U.S. Securities and Exchange Commission that do not hold securities for the account of customers and whose securities transactions are limited to selling securities shall make and maintain the following records:
- (a) With respect to every sale of securities made by the broker-dealer, the following records shall be made and maintained for five (5) years, for the first two (2) years in an easily accessible place:
    - (i) A description of the types and amounts of securities sold;
    - (ii) The date of the sale;

- (iii) The sales price and how the price was determined;
  - (iv) The commission earned and received for the sale by the broker-dealer and any agent; and
  - (v) The name and address of the person to whom the securities were sold, the agent who made the sale, and the issuer or other person on whose behalf the sale was made.
- (b) Originals of all communications received and copies of all communications sent by the broker-dealer (including interoffice memoranda and communications) relating to the sale of securities; and
- (c) For each agent employed, a copy of the agent's application to the Commissioner for registration as an agent and all orders, notices, or correspondence received by the broker-dealer with respect to the agent's registration.
- (8) Every broker-dealer shall preserve during the life of the enterprise, and of any successor enterprise, all partnership articles or, in the case of a corporation, all articles of incorporation or charter, minute books, and stock certificate books.
- (9) Any broker-dealer that is registered with the U.S. Securities and Exchange Commission, is a member of FINRA, or is a member of any national securities exchange registered with the U.S. Securities and Exchange Commission that fulfills the reporting requirements of the U.S. Securities and Exchange Commission, FINRA, or national securities exchange, as it is required, shall be deemed to be in compliance with reporting requirements of the 2008 Act, the Rules promulgated thereunder, and this Order.

(D) Custody and Discretionary Authority Bond

- (1) Subject to Section 15(h) of the Securities Exchange Act of 1934, *15 U.S.C. Section 78o(h)*, or Section 222 of the Investment Advisers Act of 1940, *15 U.S.C. Section 80b-22*, no applicant that has custody of or discretionary authority over funds or securities of a customer or client shall be registered or renewed as a broker-dealer under Article 4 of the 2008 Act until the applicant files a bond satisfactory to the Commissioner in the amount of \$25,000.
- (2) The bonding requirements in this Order shall not apply if the broker-dealer has a minimum net worth of not less than \$250,000 or is registered under Section 15(b) of the Securities Exchange Act of 1934, is a member of FINRA or a national securities exchange registered with the U.S. Securities and Exchange Commission, and is a member of the Securities Investors Protection Corporation or is specifically excluded from membership pursuant to the Securities Investors Protection Act of 1970, as amended, 15 U.S.C.A. § 78aaa, et seq., because its business consists exclusively of one or more of the following categories:
- (a) the distribution of shares of registered open end investment companies or unit investment trusts;
  - (b) the sale of variable annuities;
  - (c) the business of insurance; or

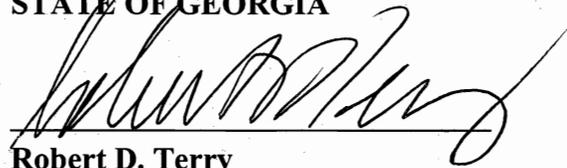
(d) the business of rendering investment advisory services to one or more registered investment companies or insurance company separate accounts.

(3) The Commissioner may, at any time, order a broker-dealer to provide additional proof of financial responsibility if Commissioner determines that is necessary to adequately protect investors.

This Order shall be effective as of July 1, 2009 and shall remain effective until modified or vacated, or superseded by Rule.

**KAREN C. HANDEL  
COMMISSIONER OF SECURITIES  
STATE OF GEORGIA**

By:

  
**Robert D. Terry  
Assistant Commissioner of Securities**