

U.S. Code citation	Civil monetary penalty description	Year penalty amount was last adjusted	Maximum penalty amount pursuant to 1996 adjustment	Adjusted maximum penalty amount
15 USC 80b-9(e)	For any other person/substantial losses to others/gain to self.	1996	550,000	600,000
	For natural person	1996	5,500	6,500
	For any other person	1996	55,000	60,000
	For natural person/fraud	1996	55,000	60,000
	For any other person/fraud	1996	275,000	300,000
	For natural person/substantial losses or risk of losses to others.	1996	110,000	120,000
	For any other person/substantial losses or risk of losses to others.	1996	550,000	600,000

[66 FR 8762, Feb. 2, 2001]

PART 202—INFORMAL AND OTHER PROCEDURES

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AUTHORITY: 15 U.S.C. 77s, 77t, 78d-1, 78u, 78w, 78l(d), 79r, 79t, 77sss, 77uuu, 80a-37, 80a-41, 80b-9, and 80b-11, unless otherwise noted.

Section 202.5 is also issued under sec. 20, 48 Stat. 86, sec. 21, 48 Stat. 899, sec. 18, 49 Stat. 831, sec. 321, 53 Stat. 1174, sec. 1, 76 Stat. 394, 15 U.S.C. 77t, 78u, 79r, 77uuu, 80a-41, 80b-9, 78d-1.

Section 202.9 is also issued under section 223, 110 Stat. 859 (Mar. 29, 1996).9

SOURCE: 25 FR 6736, July 15, 1960, unless otherwise noted.

§202.1 General.

(a) The statutes administered by the Commission provide generally (1) for the filing with it of certain statements, such as registration statements, periodic and ownership reports, and proxy solicitation material, and for the filing of certain plans of reorganization, applications and declarations seeking Commission approvals; (2) for Commission determination through formal procedures of matters initiated by private parties or by the Commission; (3) for

the investigation and examination of persons and records where necessary to carry out the purposes of the statutes and for enforcement of statutory provisions; and (4) for the adoption of rules and regulations where necessary to effectuate the purposes of the statutes.

(b) In addition to the Commission's rules of practice set forth in part 201 of this chapter, the Commission has promulgated rules and regulations pursuant to the several statutes it administers (parts 230, 240, 250, 260, 270 and 275 of this chapter). These parts contain substantive provisions and include as well numerous provisions detailing the procedure for meeting specific standards embodied in the statutes. The Commission's rules and regulations under each of the statutes are available in pamphlet form upon request to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) The statutes and the published rules, regulations and forms thereunder prescribe the course and method of formal procedures to be followed in Commission proceedings. These are supplemented where feasible by certain informal procedures designed to aid the public and facilitate the execution of the Commission's functions. There follows a brief description of procedures generally followed by the Commission which have not been formalized in rules.

(d) The informal procedures of the Commission are largely concerned with the rendering of advice and assistance by the Commission's staff to members

of the public dealing with the Commission. While opinions expressed by members of the staff do not constitute an official expression of the Commission's views, they represent the views of persons who are continuously working with the provisions of the statute involved. And any statement by the director, associate director, assistant director, chief accountant, chief counsel, or chief financial analyst of a division can be relied upon as representing the views of that division. In certain instances an informal statement of the views of the Commission may be obtained. The staff, upon request or on its own motion, will generally present questions to the Commission which involve matters of substantial importance and where the issues are novel or highly complex, although the granting of a request for an informal statement by the Commission is entirely within its discretion.

§ 202.2 Pre-filing assistance and interpretative advice.

The staff of the Commission renders interpretative and advisory assistance to members of the general public, prospective registrants, applicants and declarants. For example, persons having a question regarding the availability of an exemption may secure informal administrative interpretations of the applicable statute or rule as they relate to the particular facts and circumstances presented. Similarly, persons contemplating filings with the Commission may receive advice of a general nature as to the preparation thereof, including information as to the forms to be used and the scope of the items contained in the forms. Inquiries may be directed to an appropriate officer of the Commission's staff. In addition, informal discussions with members of the staff may be arranged whenever feasible, at the Commission's central office or, except in connection with matters under the Public Utility Holding Company Act of 1935 and certain matters under the Investment Company Act of 1940, at one of its regional or district offices.

[25 FR 6736, July 15, 1960, as amended at 59 FR 5945, Feb. 9, 1994]

§ 202.3 Processing of filings.

(a) Registration statements, proxy statements, letters of notification, periodic reports, applications for qualification of indentures, and similar documents filed with the Commission under the Securities Act of 1933 and the Trust Indenture Act of 1939, and certain filings under the Securities Exchange Act of 1934 and the Public Utility Holding Company Act of 1935 are routed to the Division of Corporation Finance, which passes initially on the adequacy of disclosure and recommends the initial action to be taken. If the filing appears to afford inadequate disclosure, as for example through omission of material information or through violation of accepted accounting principles and practices, the usual practice is to bring the deficiency to the attention of the person who filed the document by letter from the Assistant Director assigned supervision over the particular filing, and to afford a reasonable opportunity to discuss the matter and make the necessary corrections. This informal procedure is not generally employed when the deficiencies appear to stem from careless disregard of the statutes and rules or a deliberate attempt to conceal or mislead or where the Commission deems formal proceedings necessary in the public interest. If an electronic filing is not prepared in accordance with the requirements of the current EDGAR Filer Manual, the filing may be suspended and the filer so notified. Reasonable opportunity will be afforded the filer to make the necessary corrections or resubmit the filing as needed. Where it appears that the filing affords adequate disclosure, acceleration of its effectiveness when appropriate normally will be granted. A similar procedure is followed with respect to filings under the Investment Company Act of 1940 and certain filings relating to investment companies under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939, which are routed to the Division of Investment Management, and filings under the Public Utility Holding Company Act of 1935 which are also routed to the Division of Investment Management. A similar procedure is also followed in