

WAC 460-24A-047 Electronic filing. (1) Designation. Pursuant to RCW 21.20.050, the director designates the Investment Adviser Registration Depository (IARD) and the Central Registration Depository (CRD) operated by Financial Industry Regulatory Authority (FINRA) to receive and store filings and collect related fees from investment advisers, federal covered advisers, and investment adviser representatives on behalf of the director.

(2) Use of IARD and CRD. Unless otherwise provided, all investment adviser, federal covered adviser, and investment adviser representative applications, amendments, reports, notices, related filings, and fees required to be filed with the director pursuant to the rules promulgated under this chapter, must be filed electronically with and transmitted to IARD or CRD. The following additional conditions relate to such electronic filings:

(a) Electronic signature. When a signature or signatures are required by the particular instructions of any filing to be made through IARD or CRD, a duly authorized officer of the applicant or the applicant him or herself, as required, must affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to IARD or CRD. Submission of a filing in this manner will constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing.

(b) When filed. Solely for purposes of a filing made through IARD or CRD, a document is considered filed with the director when all fees are received and the filing is accepted by IARD or CRD on behalf of the state.

(3) Electronic filing. Notwithstanding subsection (2) of this section, you are not required to file any particular document or pay processing fees using the IARD or CRD system until such time as IARD or CRD provides for receipt of such filings and fees and thirty days' notice is provided by the director. Any documents or fees required to be filed with the director that are not permitted to be filed with or cannot be accepted electronically by IARD or CRD must be filed directly with the director. The director may establish a proprietary online filing system for the purpose of accepting such filings electronically.

(4) Hardship exemptions. Notwithstanding subsection (2) of this section, electronic filing is not required under the following circumstances:

(a) Temporary hardship exemption.

(i) Investment advisers registered or required to be registered under RCW 21.20.040, who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD or CRD, may request a temporary hardship exemption from the requirements to file electronically.

(ii) To request a temporary hardship exemption, the investment adviser must:

(A) File Form ADV-H in paper format with the appropriate regulatory authority in the state where the investment adviser's principal place of business is located, no later than one business day after the filing, that is the subject of the Form ADV-H, was due. If the state where the investment adviser's principal place of business is located has not mandated the use of IARD or CRD, the investment adviser should file the Form ADV-H with the appropriate regulatory authority in the first state that mandates the use of IARD or CRD by the investment adviser; and

(B) Submit the filing that is the subject of the Form ADV-H in electronic format to IARD or CRD no later than seven business days after the filing was due.

(iii) Effective date - Upon filing. The temporary hardship exemption will be deemed effective by the director upon receipt of the complete Form ADV-H by appropriate regulatory authority noted in (a)(ii)(A) of this subsection. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the director.

(b) Continuing hardship exemption.

(i) Criteria for exemption. A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this section are prohibitively burdensome.

(ii) To apply for a continuing hardship exemption, the investment adviser must:

(A) File Form ADV-H in paper format with the director at least twenty business days before a filing is due; and

(B) If a filing is due to more than one state, the Form ADV-H must be filed with the appropriate regulatory authority in the state where the investment adviser's principal place of business is located. If the state where the investment adviser's principal place of business is located has not mandated the use of IARD or CRD, the investment adviser should file the Form ADV-H with the appropriate regulatory authority in the first state that mandates the use of IARD or CRD by the investment adviser. Any applications received by the director will be granted or denied within ten business days after the filing of Form ADV-H.

(iii) Effective date - Upon approval. The exemption is effective upon approval by the director. The time period of the exemption may be no longer than one year after the date on which the Form ADV-H is filed. If the director approves the application, the investment adviser must, no later than five business days after the exemption approval date, submit filings in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted.

(c) Recognition of exemption. The decision to grant or deny a request for a hardship exemption will be made by the appropriate regulatory authority in the state where the investment adviser's principal place of business is located. If the state where the investment adviser's principal place of business is located has not mandated the use of IARD or CRD, the decision to grant or deny a request for a hardship exemption will be made by appropriate regulatory authority in the first state that mandates the use of IARD or CRD by the investment adviser. The decision will be followed by the director if the investment adviser is registered in this state.

[Statutory Authority: RCW 21.20.005, 21.20.020, 21.20.030, 21.20.040, 21.20.050, 21.20.060, 21.20.070, 21.20.080, 21.20.090, 21.20.100, 21.20.330, 21.20.340, 21.20.450, and 21.20.702. WSR 19-03-133, § 460-24A-047, filed 1/18/19, effective 2/18/19; WSR 14-13-068, § 460-24A-047, filed 6/12/14, effective 7/13/14. Statutory Authority: RCW 21.20.450. WSR 14-10-040, § 460-24A-047, filed 4/29/14, effective 5/30/14. Statutory Authority: RCW 21.20.450, 21.20.050, 21.20.100. WSR 01-16-125, § 460-24A-047, filed 7/31/01, effective 10/24/01.]