

**NASAA ELECTRONIC FILING DEPOSITORY [“EFD”] IMPLEMENTATION
MODEL RULE FOR THE ELECTRONIC FILING OF FORM D**

*Adopted September 16, 2014**

Preface: Since March 16, 2009, the U.S. Securities and Exchange Commission (“SEC”) has required the electronic filing of Form D through EDGAR (see [Release No. 33-8891](#)). NASAA is developing EFD, a system that will interface with the SEC’s EDGAR system to, inter alia, initially receive Form D notice filings and collect fees on behalf of the states. EFD is expected to expand to include other state securities filings. This model rule is intended to assist state Administrators in implementing electronic filing in their states.

ALTERNATIVE 1: FORM D FILINGS MODEL RULE

Rule [Electronic Filing with Designated Entity]

- (a) DESIGNATION. Pursuant to section [state code] of the [identify state code] Act, the [Administrator] designates the Electronic Filing Depository (“EFD”), operated by the North American Securities Administrators Association, Inc. to receive and store all *Form D* notice filings and amendments (17 C.F.R. 239.500) and collect related fees on behalf of the [Administrator].
- (b) USE OF EFD. Unless otherwise provided, upon notice under subsection (c) of this rule, *Form D* notice filings and related fees shall be filed electronically with and transmitted to EFD.
- (c) ELECTRONIC FILING. Notwithstanding subsection (b) of this rule, the electronic filing of *Form D* notice filings and amendments and the collection of related processing fees shall not be required until such time as EFD provides for receipt of such filings and fees and [30 days] notice is provided by the [Administrator]. Any documents or fees required to be filed with the [Administrator] that are not permitted to be filed with, or cannot be accepted by, EFD shall be filed directly with the [Administrator].
- (d) ELECTRONIC SIGNATURE. A duly authorized person of the issuer shall affix his or her electronic signature to the Form D filing by typing his or her name in the appropriate fields and submitting the filing to EDGAR. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing.

ALTERNATIVE 2: STATE SECURITIES REGISTRATIONS AND NOTICE FILINGS

Rule [Electronic Filing with Designated Entity]

- (a) DESIGNATION. Pursuant to section [state code] of the [identify state code] Act, the [Administrator] designates the Electronic Filing Depository (“EFD”), operated by the North American Securities Administrators Association, Inc. to be authorized in accordance with section (b) of this rule to receive and store securities registration, exemption, notice filings and amendments and collect related fees on behalf of

the [Administrator].

(b) USE OF EFD. Unless otherwise provided, upon notice under subsection (c) of this rule, Filings and related fees shall be filed electronically with and transmitted to the EFD.

(c) ELECTRONIC FILING. Notwithstanding subsection (b) of this rule, the electronic filing of documents and the collection of related processing fees shall not be required until such time as the EFD provides for receipt of such filings and fees and [30 days] notice is provided by the [Administrator]. Any documents or fees required to be filed with the [Administrator] that are not permitted to be filed with, or cannot be accepted by, the EFD system shall be filed directly with the [Administrator].

(d) ELECTRONIC SIGNATURE. A duly authorized person of the issuer shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to EDGAR. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing.

Comments

Paragraph (b): Paper Filing. The model rule does not permit paper filings of Form D. A jurisdiction, however, could allow for paper filings by amending the language in paragraph (b) such that, in certain circumstances, issuers would submit a paper copy of the Form D directly to the jurisdiction along with the appropriate filing fees. EFD system functionality will allow state regulators to manually enter Form D information into the EFD system. Instances in which a state might allow such paper filings might include issuers that are filing in that jurisdiction only.

Paragraph (b): Other electronic filing systems. In Alternative 1, the model rule designates the EFD system as the portal through which issuers will electronically file Form D with the jurisdictions. In Alternative 2, the model rule designates the EFD system as the portal through which issuers will electronically file all securities registration, exemptions, notice filings and amendments, along with, related fees with the jurisdiction. States may designate other filing systems through which these materials may be filed with the states. By way of example, paragraph (b) could be modified by changing the title of the paragraph to “USE OF ELECTRONIC FILING SYSTEMS” and the words “one or more of the following filing systems” in place of “EFD,” followed by a list of such filing systems.