

18 NCAC 06A .1704 MINIMUM FINANCIAL REQUIREMENTS FOR INVESTMENT ADVISERS

(a) Unless an investment adviser posts a bond pursuant to Rule .1705, an investment adviser registered or required to be registered under the Act who has custody of client funds or securities shall maintain at all times a minimum net worth of thirty-five thousand dollars (\$35,000.00), and every investment adviser registered or required to be registered under the Act who has discretionary authority over client funds or securities but does not have custody of client funds or securities shall maintain at all times a minimum net worth of ten thousand dollars (\$10,000.00).

(b) Unless otherwise exempted, as a condition of the right to continue to transact business in this state, every investment adviser registered or required to be registered under the Act shall by the close of business on the next business day notify the administrator if such investment adviser's total net worth is less than the minimum required. After transmitting such notice, each investment adviser shall file by the close of business on the next business day a written report with the administrator of its financial condition, including the following:

- (1) a trial balance of all ledger accounts;
- (2) a statement of all client funds or securities which are not segregated;
- (3) a computation of the aggregate amount of client ledger debit balances; and
- (4) a statement as to the number of client accounts.

(c) For purposes of this Rule, the term "net worth" shall mean an excess of assets over liabilities, as determined by generally accepted accounting principles, but shall not include as assets: prepaid expenses (except as to items properly classified as current assets under generally accepted accounting principles), deferred charges, subordinated loans, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, all other assets of intangible nature; home, home furnishings, automobile(s), and any other personal items not readily marketable in the case of an individual; advances or loans to stockholders and officers in the case of a corporation; and advances or loans to partners in the case of a partnership.

(d) The administrator may require that a current appraisal be submitted in order to establish the worth of any asset.

(e) Every investment adviser that has its principal place of business in a state other than this state shall maintain such capital as required by the state in which the investment adviser maintains its principal place of business, provided the investment adviser is licensed in such state and is in compliance with such state's minimum capital requirements, if any.

*History Note: Authority G.S. 78C-17(d); 78C-18(c)(d); 78C-30(a);
Temporary Rule Eff. January 2, 1989, for a period of 180 days to expire on June 30, 1989;
Eff. February 1, 1989;
Amended Eff. September 1, 1995;
Temporary Amendment Eff. October 1, 1997;
Amended Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*