

**ALABAMA SECURITIES COMMISSION  
ADMINISTRATIVE CODE**

**CHAPTER 830-X-1  
ORGANIZATION AND GENERAL OPERATION**

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**830-X-1-.01      Organization.**

The Alabama Securities Commission is organized pursuant to Act No. 740 (1969 Regular Session) as codified in Code of Ala. 1975, §§ 8-6-50 through 60. Its members consist of the State Superintendent of Banks, the State Commissioner of Insurance, the Attorney General of Alabama and two members appointed by the Governor, by and with the advice and consent of the Senate, from lists of nominees submitted by the Alabama Bar Association and the Alabama Society of Certified Public Accountants. The Commission is charged with the enforcement of laws governing the issuance, sale and other transactions relative to securities.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 8-6-50 through 8-6-60.

**History:** Filed September 30, 1982. **Readopted:** Filed November 9, 1983.

**830-X-1-.02      Industrial Revenue Development Bond  
Notification Act.**

The Commission is charged with the responsibility of administering the Industrial Revenue Development Bond Notification Act as codified in Code of Ala. 1975, §§ 8-6-110 through 8-6-122.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 8-6-110 through 8-6-122.

**History:** Filed September 30, 1982. **Readopted:** Filed November 9, 1983.

**830-X-1-.03      Sale Of Checks Act.**

The Commission is charged with the responsibility of administering the Sale of Checks Act as codified in Code of Ala. 1975, §§ 8-7-1 through 8-7-15.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 8-7-1 through 8-7-15.

**History:** Filed September 30, 1982. **Readopted:** Filed November 9, 1983.

**830-X-1-.04      Commission Members.**

Commission members, with the exception of the Attorney General, are appointed by the Governor for a term of four years. If at any time there should be a vacancy on the Commission, a successor member may be appointed by the Governor for the unexpired term. Commission members are eligible for reappointment. The Commission elects one member to serve as Chairman. No person may be appointed to the Commission while he is registered as a securities dealer or salesman, while he is an officer or partner of any person so registered, or while he is an officer, director or partner of an issuer which has an effective registration statement on file with the Office of the Commission.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 8-6-51 through 8-6-53.

**History:** Filed September 30, 1982. **Readopted:** Filed November 9, 1983.

**830-X-1-.05      Formal And Informal Procedures.**

(1) General. The Commission recognizes both formal and informal hearings. Formal hearings are those matters which require the taking of sworn testimony, a formal hearing, and a formal order. They must be instituted and progressed inconformity with the applicable rules governing contested cases under the Administrative Procedure Act (APA). Whenever practicable, informal procedures are recommended for speedy, amicable adjustment of complaints or controversies which do not necessarily require a formal hearing. Informal procedures utilized by the Commission include informal meetings with Commission staff and informal hearings before the Commission itself.

(2) Informal Meetings. If the Commission staff deems it advisable in the speedy determination of an informal matter, it will arrange

an informal meeting between the staff and an applicant/registrar and attempt to resolve the controversy in an amicable manner.

(3) Informal Hearings.

(a) Informal hearings may be commenced by letter, telegram or other instrument in writing to the applicant/registrar against whom the proceeding is instituted; it shall include a concise statement of all the facts necessary to an understanding of the situation presented and a statement of the desired disposition.

(b) Such informal hearing shall be held among the Commission staff, the applicant/registrar, and the Commission at a regularly scheduled Commission meeting, the date of which shall be contained in the notice of informal hearing.

(c) Informal hearings shall be used to resolve minor deficiencies which the commission staff deems advisable to obtain guidance from the Commission itself. Such hearings shall not result in formal orders adverse to the applicant/registrar. Such hearings shall be used to grant approval of registration of securities where the submission is uncontested by Commission staff.

(d) The filing of an informal hearing is without prejudice to the right thereafter to institute a formal hearing covering the same matter.

(4) Formal Hearings.

(a) No order of the Commission which adversely affects the legal rights, duties or privileges of an applicant/registrar shall become final until such aggrieved party has been afforded the opportunity for a formal hearing under the provisions guiding contested cases of the Administrative Procedure Act. The applicant/registrar shall be advised of the reasons for the adverse action by a preliminary order signed by the Director. Such preliminary order shall advise the applicant/registrar of his right to request such formal hearing, and upon receipt of said suchrequest, the Director shall, within fifteen (15) days, set the matter down for hearing before the Commission at its next regular or special board meeting. The Director shall give the applicant/registrar the required notice of such hearing by certified mail or personal service. Formal hearings will be conducted by the Chairman of the Commission or by a presiding officer designated for that purpose. The presiding officer shall conduct the formal hearing substantially as follows:

1. Call the hearing to order and thereafter give the title of the proceeding to be heard and a brief statement

of the issues involved, or the nature and purpose of the hearing.

2. Cause to be entered in the record the kind of notice giving the time, place, and nature of the hearing, the date or dates such notice was given, and the method whereby it was served.

3. Take the appearances of the parties desiring to participate in the hearing, stating the nature and extent of the parties interest and the questions or issues to which each confines his appearance.

4. Call for any motions or other matters that should be disposed of prior to the taking of testimony.

5. Call for the presentation of evidence, whereupon the Commission staff shall present its evidence and exhibits, followed by evidence and exhibits presented by the applicant/registrant.

(b) At the conclusion of the hearing, the Commission shall deliberate in executive session and reach a decision to enter a final order, or modify or vacate the preliminary order. The Commission may require the parties to submit proposed findings of fact and conclusions of law for consideration in the disposition of said cause.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 8-6-23, 41-22-4.

**History:** Filed September 30, 1982. **Readopted:** Filed November 9, 1983.

**830-X-1-.06      Index To Forms Prescribed By The Commission.**

(1) The forms prescribed by the Commission for use in the registration of securities are as follows:

Form RQ	--	Application for Registration of Securities by Qualification, Exhibit Form No. 1 (Used in conjunction with Form RQ)
Form NM	--	Notice for Open-End Management Investment Companies and Unit Investment Trusts
Form EA-1	--	Escrow Agreement
Form QQ	--	Quarterly Financial Report for Registered Issuers
Form CR	--	Application for Cancellation of Registration
Form U-1	--	Uniform Application *
Form U-2	--	Consent to Service of Process *
and		
U-2(a)	--	Corporate Resolution
Form U-4	--	Uniform Application for Securities Industry Registration or Transfer *

Form RN      -- Application for the Registration of Securities by Notification  
Form RCM-A -- Application for the Annual Registration of Securities by Coordination

(2) The forms prescribed by the Commission for use in the registration of dealers, agents, investment advisers and investment adviser representatives are as follows:

Form BD      -- Uniform Application for Broker Dealer Registration \*  
Form ADV     -- Uniform Application for Registration as Investment Adviser Registration \*  
Form U-SB    -- Uniform Surety Bond \*  
Form U-2     -- Consent to Service of Process \*  
and U-2A    -- Corporate Resolution \*  
Form U-4     -- Uniform Application for Securities Industry Registration or Transfer \*  
Form U-5     -- Uniform Termination Notice for Securities Industry Registration \*  
Focus II    -- Quarterly Financial Report for Dealers \*  
or Focus  
II(a)

(3) The forms prescribed by the Commission for use in the application for licensing under the Sale of Checks Act are as follows:

Form SA      -- Application for License  
Form SB      -- Surety Bond  
Form SD      -- Deposit in Lieu of Surety Bond  
Form SR      -- Application for Renewal of License

(4) The form prescribed for use in the notification to the Director of the proposed issuance of industrial revenue bonds is as follows:

IRB-1        -- Initial Submission

(5) The form prescribed for use in the application for exemption pursuant to Rule 830-X-6-.11 is as follows:

Form D        -- Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption

\* These forms are not available from the Alabama Securities Commission.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 8-6-3, 8-6-4 through 8-6-8, 8-6-23, 8-6-113, 8-6-115.

**History:** Filed September 30, 1982. **Readopted:** Filed November 9, 1983. **Amended:** Filed September 28, 1990.

**830-X-1-.07        Petitions To Initiate Rule-Making Proceedings.**

(1) All petitions for rule-making proceedings pursuant to Code of Ala. 1975, § 41-22-8, must contain the name and mailing address of the petitioner; text of the rule to be adopted, amended, or repealed; specific grounds and reasons therefor; and the specific action requested.

(2) The Commission, in its consideration of the petition, shall determine if the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Alabama Securities Act. If the Commission determines the petition is insufficient, the petition shall be denied with a written statement setting forth the reasons for such denial. If the Commission determines that the petition does set forth sufficient reasons in support of the action requested, the Commission shall issue the appropriate notice and initiate rule-making proceedings in accordance with APA, Section 41-22-5.

**Author:**

**Statutory Authority:** Code of Ala. 1975, §§ 8-6-23, 41-22-8.

**History:** Filed September 30, 1982. **Readopted:** Filed November 9, 1983.

**830-X-1-.08        Petition For Declaratory Rulings.**

(1) A person may petition the Commission for a declaratory ruling as to the validity of any of these rules or the applicability of any rule or statute enforceable by the Commission or with respect to the meaning and scope of any order of the Commission as it applies to the petitioner in his particular set of circumstances.

(2) The potential impact upon the petitioner's substantial interest must be alleged in order for the petitioner to show the existence of a controversy.

(3) The petition shall include the petitioner's name and mailing address and shall specify which rule, order, or statutory provision on which the declaratory ruling is sought and shall include a description of how the rule, order, or statute affects the petitioner. The Commission, may at its own discretion, hold an informal hearing to dispose of the petition. The Commission shall only issue a ruling upon a finding of a substantial interest of the petitioner and a clear finding that the rule, order, or statutory provision either is, or is not, applicable to the petitioner under his particular circumstances.

**Author:**

**Statutory Authority:** Code of Ala. 1975, § 8-6-23, 41-22-11.

**History:** Filed September 30, 1982. **Readopted:** Filed November 9, 1983.