§ 275.0–5 Procedure with respect to applications and other matters.

The procedure hereinbelow set forth will be followed with respect to any proceeding initiated by the filing of an application, or upon the Commission’s own motion, pursuant to any section of
§ 275.0–6 Incorporation by reference in applications.

(a) A person filing an application may, subject to the limitations of §228.10(f) and §229.10(d) of this chapter, incorporate by reference as an exhibit to such application any document or part thereof, including any financial statement or part thereof, previously or concurrently filed with the Commission pursuant to any act administered by the Commission. The incorporation may be made whether the matter incorporated was filed by such applicant or any other person. If any modification has occurred in the text of any such document since the filing thereof, the applicant shall file with the reference a statement containing the text of any such modification and the date thereof. If the number of copies of any document previously or concurrently filed with the Commission is less than the number required to be filed with the application which incorporates such document, the applicant shall file therewith as many additional copies of the document as may be necessary to meet the requirements of the application.

(b) Notwithstanding paragraph (a) of this section, a certificate of an independent public accountant or accountants previously or concurrently filed may not be incorporated by reference in any application unless the written consent of the accountant or accountants to such incorporation is filed with the application.

(c) In each case of incorporation by reference, the matter incorporated shall be clearly identified in the reference. An express statement shall be made to the effect that the specified matter is incorporated in the application at the particular place where the information is required.

(d) Notwithstanding paragraph (a) of this section, no application shall incorporate by reference any exhibit or financial statement which (1) has been withdrawn, or (2) was filed under any act administered by the Commission in connection with a registration which has ceased to be effective, or (3) is contained in an application for registration, registration statement, or report subject, at the time of the incorporation by reference, to pending proceedings under section 8(b) (15 U.S.C. 77a–8(b)) or 8(d) (15 U.S.C. 77a–8(d)) of the Securities Act of 1933 (15 U.S.C. 77a–1 et seq.), section 8(e) (15 U.S.C. 80a–8(e)) of the Investment Company Act of 1940, section 15(b)(4)(A) (15 U.S.C. 78a–15(b)(4)(A)) of the Securities Exchange Act of 1934 (15 U.S.C. 78a–1 et seq.), section 203(e)(1) (15 U.S.C. 80b–3(e)(1)) of the Investment Advisers Act of 1940 or to an order entered under any of those sections.

(e) Notwithstanding paragraph (a) of this section, the Commission may refuse to permit incorporation by reference in any case in which in its judgment such incorporation would render an application incomplete, unclear, or confusing.