

From the Maryland Securities Division

Please note the following as you prepare to file franchise registration applications in Maryland during this upcoming renewal cycle:

New Financial Statement Requirements

- In November 2013, the Maryland Securities Commissioner issued a no action position allowing franchisors to file financial statements required under Maryland Franchise Regulations to be current within **120 days** of the application, instead of 90 days. www.oag.state.md.us/Securities/Franchise%20IO%20120%20days.pdf

Combining Area Representation Franchise and Unit Franchise

- If the franchisor is **renewing or amending** an effective franchise disclosure document (“FDD”) that combines, in the same FDD, a unit franchise with an “area representation” franchise, the franchisor may continue to combine both offerings in one FDD under one registration. If NASAA adopts a final Multi-Unit Commentary that prohibits the combination in the same FDD, Maryland intends to follow that position for all FDDs.
- If the franchisor is filing an **initial** application that seeks to register both a unit franchise offering and an area representation franchise, the franchisor must file separate applications, with separate FDDs, for each offering.
- If the franchisor is renewing or amending an effective FDD that previously disclosed only a unit offering and seeks to add an area representation franchise offering in that same FDD, the franchisor will be required to file separate applications, and separate FDDs, for each offering.
- The franchisor may continue to combine a unit franchise offering with an area development offering in the same FDD.

Avoid these Common Mistakes

- When renewing or amending, make sure your application includes a black-lined copy of the **complete** revised FDD, including exhibits. Also, make sure your black-lined copy compares the latest revised FDD to the most recently effective version of the FDD on file with the Securities Division.
- Do not ignore the requirement in Item 12 to specifically disclose whether or not the franchisor provides an “exclusive territory” as the FTC has defined that term in FAQ 37. www.business.ftc.gov/documents/amended-franchise-rule-faqs#37.

- Make sure the dollar figures on the FTC cover page match the corresponding dollar figures disclosed in Items 5 and 7, and that the franchise and company owned outlet totals disclosed in Table 1 of Item 20 match the corresponding totals in Table 3 and Table 4.
- Do not add more disclaimer language than is specified under the FTC Rule (and, where applicable, the NASAA Commentary), or repeat the disclaimer language multiple times.
- Include the correct “issuance date” on both the FTC cover page and receipt pages of the FDD. The issuance date is the date the franchisor finalizes that version of the FDD. The “effective date” is the date when a state formally registers the FDD. An FDD filed with a state as part of an initial or renewal registration should list an issuance date but leave a blank space for the effective date. An FDD filed with an amendment application should state the original issuance date of that FDD, with an “as amended” date.
- Review the NASAA Commentary on the Franchise Registration and Disclosure Guidelines (go to www.nasaa.org) and the FTC’s FAQs (go to www.ftc.gov). Those documents contain additional guidance on many common issues regarding franchise registration and disclosure requirements.

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