

**Senate**

**Record of Committee Proceedings**

**Committee on Privacy, Electronic Commerce and Financial Institutions**

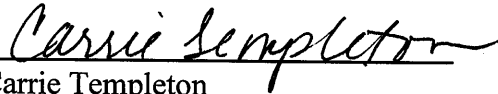
**Clearinghouse Rule 00-017**

Relating to investment adviser representative competency examination grandfather provisions.

Submitted by the Department of Financial Institutions.

March 21, 2000      Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

April 21, 2000      **NO ACTION TAKEN**

  
Carrie Templeton  
Committee Clerk

# JON ERPENBACH

S T A T E   S E N A T O R

March 21, 2000

TO: Members of the Senate Committee on Privacy, Electronic Commerce and Financial Institutions

FROM: Senator Jon Erpenbach, Chair

RE: Clearinghouse Rule 00-017

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Attached is a copy of Clearinghouse Rule 00-017 relating to investment adviser representative examinations. If you would like to a public hearing to be held on this rule, please contact my office by April 20, 2000. Thank you.



State of Wisconsin  
Department of Financial Institutions

Tommy G. Thompson, Governor

Richard L. Dean, Secretary

March 15, 2000

The Honorable Fred Risser, President  
Wisconsin State Senate  
Attn: Donna Doyle  
c/o Office of Senate Journal and Records  
119 Martin Luther King Blvd, Ste. 500  
Madison, WI 53702

The Honorable Scott Jensen  
Speaker of the Assembly  
Attn: Ken Stigler  
c/o Office of Assembly Records  
1 E. Main St., Ste. 402  
Madison, WI 53702

Re: Clearinghouse Rule 00-017/Administrative Rule-Making Notice and Report to  
Legislative Standing Committees Under secs. 227.19(2) and (3), Wis. Stats.

Gentlemen:

The Division of Securities of the Department of Financial Institutions hereby submits for filing with the Wisconsin Legislature pursuant to the administrative rule-making requirements of secs. 227.19(2) and (3), Wis. Stats., copies in triplicate of the Notice and Report required thereunder consisting of:

- (1) Proposed administrative rules in proposed final draft form as specified in sec. 227.14(1), Wis. Stats.
- (2) A Report as prescribed in sec. 227.19(3), Wis. Stats.
- (3) A fiscal estimate for the proposed rules.
- (4) A copy of the Clearinghouse Report of the Wisconsin Legislative Council relating to the published, public comment draft form of the proposed rules.

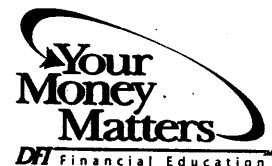
If you have any comments or questions regarding the above, please telephone me at 266-3414.

Very truly yours,

Randall E. Schumann  
Legal Counsel for the Division

Attachments

cc: Revisor of Statutes  
Joint Committee for Review of Administrative Rules  
Patricia D. Struck, Administrator, Division of Securities  
David Anderson, Executive Assistant, DFI



Division of Securities

**PROPOSED FINAL ORDER OF THE  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF SECURITIES  
STATE OF WISCONSIN  
ADOPTING RULES**

To amend DFI-Sec 5.01(4)(b) and to create DFI-Sec 5.01(4)(e) relating to investment adviser representative competency examination grandfathering provisions.

**Analysis Prepared by the Department of Financial Institutions, Division of Securities**

Statutory Authority: Sections 551.32(4) and 551.63(2), Wis. Stats.

Statute Interpreted: Section 551.32(4), Wis. Stats.

These proposed permanent rules are being promulgated to be in place upon the expiration of identical emergency rules currently in effect that were issued by Order of the Administrator of the Division of Securities on December 23, 1999, and became effective on January 1, 2000 following publication in the official state newspaper and the required filings with the Secretary of State and the Revisor of Statutes Bureau. The proposed permanent rules, as do the current emergency rules, are necessary to establish certain "grandfathering"/examination-waiver provisions applicable to a newly-enacted investment adviser representative competency examination requirement, so as to be uniform with equivalent grandfathering provisions adopted in most states.

See the Statement Explaining Need for Proposed Rules in Section (a) of the attached Report for a more comprehensive discussion.

The rulemaking action is comprised of two provisions which do the following: (1) provide an examination waiver in new section DFI-Sec 5.01(4)(e) for any applicant licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. on January 1, 2000; and (2) provide an examination waiver in amended section DFI-Sec 5.01(4)(b) for any applicant that has been licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. within two years prior to the date the application is filed.

\*\*\*\*\*

**Text of Rules**

**SECTION 1. DFI-Sec 5.01(4)(b) is amended to read:**

**DFI-Sec 5.01(4)(b)** The applicant was has been licensed as an investment adviser or licensed as an investment adviser representative under ch. 551, Stats., in any jurisdiction in the United States within 2 years prior to the date the application is filed.

**SECTION 2. DFI-SEC 5.01(4)(e) is created to read:**

**DFI-Sec 5.01(4)(e)** The applicant was licensed as an investment adviser or licensed as an investment adviser representative in any jurisdiction in the United States on January 1, 2000, except that the administrator may require additional examinations for any individual found to have violated any state or federal securities law.

\*\*\*\*\*

The rules contained in this Order shall take effect as provided in sec. 227.22(2), Wis. Stats., on the first day of the month commencing after publication of the rules in the Wisconsin Administrative Register.

Dated at Madison, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

[ SEAL ]

\_\_\_\_\_  
Patricia D. Struck  
Administrator

**REPORT PREPARED BY THE  
DEPARTMENT OF FINANCIAL INSTITUTIONS DIVISION OF SECURITIES  
RELATING TO PROPOSED FINAL FORM OF REVISIONS TO  
THE RULES OF THE DIVISION OF SECURITIES**

**(a) Statement Explaining Need for Proposed Rules**

These proposed permanent rules are being promulgated to be in place upon the expiration of identical emergency rules currently in effect that were issued by Order of the Administrator of the Division of Securities on December 23, 1999, and became effective on January 1, 2000 following publication in the official state newspaper and the required filings with the Secretary of State and the Revisor of Statutes Bureau. The proposed permanent rules, as do the current emergency rules, are necessary to establish certain "grandfathering"/examination-waiver provisions applicable to a newly-enacted investment adviser representative competency examination requirement, so as to be uniform with equivalent grandfathering provisions adopted in most states.

The Division recently adopted for January 1, 2000 effectiveness as part of its annual rule revision process for 1999, a new administrative rule in DFI-Sec 5.01(3) that prescribes a new examination requirement for investment advisers and investment adviser representatives seeking licensure in Wisconsin on or after January 1, 2000. That new examination requirement, which includes completely revised Series 65 and Series 66 examinations, was developed over a 3-year period by a Project Group of the North American Securities Administrators Association ("NASAA").

The new NASAA examination requirement (which also included certain "grandfathering"/examination-waiver provisions) was approved by vote of NASAA member states (including Wisconsin) at the NASAA 1999 Spring Conference to become effective on December 31, 1999. The NASAA membership vote was accompanied by a recommendation that for uniformity purposes, each NASAA member state complete the necessary steps to adopt and have effective by January 1, 2000, the new examination requirement conforming to the NASAA format in all respects.

Following the adoption on November 18, 1999 by the Division of the new investment adviser examination requirement in DFI-Sec 5.01(3) as part of the Division's annual rule revision process, it was noted that the "grandfathering"/examination waiver provisions that had been included in DFI-Sec 5.01(4) did not track the NASAA model language in two respects.

Because it is critical that the grandfathering provisions for the new Wisconsin investment adviser examination requirement be uniform with those of other NASAA member states so that applicants for licensing in Wisconsin receive equivalent treatment to that accorded them by other states in which they may be seeking licensure, both the emergency rulemaking and the permanent rulemaking are necessary.

The rulemaking action is comprised of two provisions which do the following: (1) provide an examination waiver in new section DFI-Sec 5.01(4)(e) for any applicant licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. on January 1, 2000; and (2) provide an examination waiver in amended section DFI-Sec 5.01(4)(b) for any applicant that has been licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S.

within two years prior to the date the application is filed.

**(b) Explanation of Modifications Made as a Result of the Public Hearing and Comment Process**

No modifications were made as a result of the public hearing and comment process. No persons, other than staff, appeared at the public rule-making hearing, and no comment letters were received.

**(c) List of Persons Appearing or Registering at the Public Hearing and Comment Letters Received**

-- Randall E. Schumann, Legal Counsel for the Division of Securities, made an appearance on behalf of the Division staff to submit documents and information for the record and to be available to respond to any questions should the need arise.

--No comment letters were received.

**(d) Response to Legislative Rules Clearinghouse Report Recommendations**

The Rules Clearinghouse Report did not contain any recommendations, thus no responses are warranted.

(e) No final regulatory flexibility analysis is included on the basis that the Division of Securities has determined, after complying with s. 227.016(1) to (5), Wis. Stats., that the proposed rules will not have a significant impact on a substantial number of small businesses.

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FISCAL ESTIMATE  
DOA-2048 N(R10/98)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject Investment adviser representative competency examination grandfathering provisions.

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No
- Decrease Costs

Local:  No local government costs

- 1.  Increase Costs
  - Permissive  Mandatory
- 2.  Decrease Costs
  - Permissive  Mandatory

- 3.  Increase Revenues
  - Permissive  Mandatory
- 4.  Decrease Revenues
  - Permissive  Mandatory

5. Types of Local Governmental Units Affected:
- Towns  Villages  Cities
  - Counties  Others \_\_\_\_\_
  - School Districts  WTCS Districts

Fund Sources Affected

- GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The emergency rules revise a newly-adopted investment adviser representative examination rule requirement so as to have its "grandfathering"/examination-waiver provisions be uniform with those being adopted in other states for January 1, 2000 effectiveness. [The Division has recently adopted for January 1, 2000 effectiveness as part of its annual rule revision process for 1999, a new administrative rule in DFI-Sec 5.01(3) that prescribes a new examination requirement for investment advisers and investment adviser representatives seeking licensure in Wisconsin on or after January 1, 2000. That new examination requirement, which includes completely revised Series 65 and Series 66 examinations, was developed over a 3-year period by a Project Group of the North American Securities Administrators Association ("NASAA").]

The rule adoptions will not have any state fiscal effect because they do not impact any revenue-generating activities of the Division.

The rules do not involve any local government costs.

Long-Range Fiscal Implications None

Agency/Prepared by: (Name & Phone No.)  
Dept. of Financial Institutions/Div of Securities  
Randall Schumann, Legal Counsel 266-3414

Authorized Signature/Telephone No.  
  
Patricia D. Struck, Administrator 266-3432

Date  
12-28-99



**FISCAL ESTIMATE WORKSHEET**

1999 Session

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/98)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
DFI-Sec 5.01(4)(b) and (e)

Amendment No.

Subject

Investment adviser representative competency examination grandfathering provisions

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):  
None

II. Annualized Costs:	Annualized Fiscal Impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$ 0	\$ - 0
(FTE Position Changes)	( 0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	<b>\$ 0</b>	<b>\$ - 0</b>
<b>B. State Costs by Source of Funds</b>	<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR	\$	\$ -
FED		-
PRO/PRS	0	- 0
SEG/SEG-S		-
<b>State Revenues</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	0	- 0
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	<b>\$ 0</b>	<b>\$ - 0</b>

**NET ANNUALIZED FISCAL IMPACT**

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.) Dept. of Financial Institutions/Div of Securities Randall Schumann, Legal Counsel 266-3414	Authorized Signature/Telephone No.  Patricia D. Struck, Administrator 266-3432	Date 12-28-99
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WISCONSIN LEGISLATIVE COUNCIL STAFF



***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
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**Richard Sweet**  
Assistant Director  
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One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 00-017**

AN ORDER to amend DFI-Sec 5.01 (4) (b); and to create DFI-Sec 5.01 (4) (e), relating to investment adviser representative competency examination grandfather provisions.

Submitted by **DEPARTMENT OF FINANCIAL INSTITUTIONS**

01-20-00 RECEIVED BY LEGISLATIVE COUNCIL.

02-17-00 REPORT SENT TO AGENCY.

RS:DLS:rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO