



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 04-074

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

2. Form, Style and Placement in Administrative Code

a. All of the definitions that are being created in SECTIONS 1 and 2 are specific to s. DFI-Sec 5.035. It might be easier if they were placed in s. DFI-Sec 5.035. If they are kept in s. DFI-Sec 1.02, the new definitions, as well as the definitions currently in that section, should be alphabetized.

b. In s. DFI-Sec 5.02, sub. (2) (intro.) is incorrectly drafted as introductory material since it does not end in a colon and lead into the paragraphs that follow. [See s. 1.03 (8), Manual.] This could be remedied by starting sub. (2) (intro.) with “Except as follows, each” and ending it with a colon.

c. In s. DFI-Sec 5.035 (1) (c) and elsewhere in the rule, “shall” should replace “must.” For more examples, see sub. (2) (e) 2. and (f).

d. In s. DFI-Sec 5.035 (1) (d), “...with either subd. 1, 2, or 3.” should be “...with one of the following.”. In addition, this paragraph is subdivided too far. There can be no units below subdivision paragraphs and even subdivision paragraphs should be avoided if possible. [See s. 1.03 (6), Manual.]

e. In s. DFI-Sec 5.035 (3) (c) 2. and 3., “If” should replace “Where”; in par. (c) 2. a., “date” should be replaced “date(s).”

4. Adequacy of References to Related Statutes, Rules and Forms

a. There are several references in the rule to federal acts. These should be replaced by the U.S. Code cite. If the act reference is included, this could be done in a note. [See s. 1.07 (3) (a), Manual.] For example, see s. DFI-Sec 1.02 (23) (a) and (b).]

b. There are several references in the rule to Form ABV. See s. 1.09 (2), Manual, for information that should be provided regarding how to obtain the form.

c. In s. DFI-Sec 5.035 (2) (b) 2., “sub. 1” should replace the first cross-reference and “par. (c)” should replace the second. In par. (c), “sub. (1) (d)” should replace the cross-reference.

d. In s. DFI-Sec 5.035 (2) (e) 2. b. and c., the cross-references should be redrafted to conform with s. 1.07 (2), Manual.

e. In s. DFI-Sec 5.035 (2) (e) (intro.), what does “...of this section DFI-Sec 5.035...” refer to?

f. In s. DFI-Sec 5.035 (2) (e) 2. a., “...requirements of sub. (1) of this rule and...” should be “...requirements of sub. (1) and....” In par. (f), “sub. (1)” should replace “DFI-Sec 5.035 (1) of this rule.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. DFI-Sec 1.02 (17), if the definition of “custody” is specific only to s. DFI-Sec 5.035. What will the definition of “custody” be for the rest of chs. DFI-Sec 1 through 36?

b. In s. DFI-Sec 1.02 (22) and (23), all of the paragraphs should end with periods.

c. In s. DFI-Sec 1.02 (24) (a), there is quite a lot packed into one sentence. Could it be broken up?

d. In s. DFI-Sec 5.035 (1) (d) 2. b. (i), “...year to year, and the...” should be “...year to year. The....”

e. Section DFI-Sec 5.035 (1) (e) seems out of place. The subsection delineates the requirements that an investment advisor must comply with. Paragraph (e) appears to require the customer to designate an independent representative. If that is the intent, the drafting should be modified so that par. (e) reads “A customer shall...” and the introduction in sub. (1) does not specify that only the investment advisor must comply.

f. In s. DFI-Sec 5.035 (1) (f) 2. b., should “management” replace “managements”?

g. In s. DFI-Sec 5.035 (1) (g) 2., each subdivision should end with a period. This needs to be checked throughout the rule.

h. In s. DFI-Sec 5.035 (3) (a), what are the three-day and 24-hour periods measured from?

- i. In s. DFI-Sec 5.035 (3) (a) 1., all of the subdivision paragraphs should end with periods.
- j. Section DFI-Sec 5.035 (3) (a) 2. (intro.) should end with a colon.