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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 09-056

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### 2. Form, Style and Placement in Administrative Code

a. In the summary and SECTION 7 of proposed rule, the department should refer to s. “DFI-Sec 4.01 (4) (e) to (g).” Additionally, “(4)” should be inserted as needed in SECTION 7 of the proposed rule. The treatment clause of SECTION 7 should refer to s. DFI-Sec 4.01 (3) (intro.) rather than s. DFI-Sec 4.01 (3).

b. In the summary of the proposed rule, could the description of s. DFI-Sec 4.01 (4) (e) to (g) be clarified? Could the purpose of the provision, as summarized, be clarified to state that it requires applicants holding foreign credentials to take and pass a state exam? Since the waiver in s. DFI-Sec 4.01 relates to exemption from taking and passing a state exam, but pars. (e) to (g) still require a state exam, what would happen by deleting s. DFI-Sec 4.01 (4) (e) to (g)?

c. In s. DFI-Sec 2.04 (2) (b), would it be useful to rephrase the filing requirement in a more generic manner? A generic reference would eliminate the need for a rule revision if “PNC Global Investment Servicing or its affiliate” ceases its operation of the North American Securities Administrators Association electronic filing system.

d. Generally, should other portions of s. DFI-Sec 4.01 (3) (intro.) be clarified? In particular, the reference to “one of the general securities business examinations in par. (a)” is confusing since s. DFI-Sec 4.01 (3) (a) refers solely to the Series 7 exam. Additionally, should the department consistently refer to “taking and passing” an exam with regard to waivers? Currently, the section requires an applicant “to take and pass an exam,...or receive a waiver from

passing.” Taken literally, this implies that every applicant may be required to take an exam, but that some applicants are not required to pass the exam. Does that outcome reflect current practices?

e. In s. DFI-Sec 5.05 (2) (a), stricken material from the current rule should be included.

f. In s. DFI-Sec 5.13 (4), the department introduces “supervised person” as a term of art. Would it be more appropriate to use the terms that appear in the underlying statute? Section 551.404, Stats., relates to persons “employed or associated” with an investment adviser or federal covered investment adviser.

g. SECTION 12 of the proposed rule should refer to “DFI-Sec 9.01 (1) (b) 10. and 13.” Periods need to be inserted after the subdivision numbers.

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

In s. DFI-Sec 1.02 (5) (c), the department includes a cross-reference to s. DFI-Sec 5.13, while also adding a reference to s. 551.405 (1), Stats. Should the department include the reference to s. 551.405 (1), Stats., in s. DFI-Sec 5.13 as well?

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

a. The clarity of s. DFI-Sec 2.04 (2) (intro.) could be improved if modified to state: “shall ~~file~~ make a filing with the division, not later than 15 days after the after the first sale of the security in this state, a that meets the requirements of either of the following:”.

b. Since the proposed rules relate to chs. DFI-Sec 4 and 5, should the summary of the proposed rule distinguish between the types of applicants under each chapter?