



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 21-057

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

a. In the statutory authority section, the agency could simply cite to s. 551.411 (8), Stats., and move the description that is currently in that section to the explanation of agency authority section.

b. The agency’s description of statutes interpreted could more precisely cite to subch. IV of ch. 551, Stats.

2. Form, Style and Placement in Administrative Code

a. The rule caption should include a relating clause. For example, “relating to continuing education requirements for investment adviser representatives”. [s. 1.01 (1), Manual.]

b. The agency should include a title for the newly created ch. DFI-Sec. 11. For example, “Investment Adviser Representatives”.

c. In the definition of “reporting period” in SECTION 1, the agency should use Arabic numerals. [s. 1.06 (3), Manual.]

d. In SECTIONS 1, 2, and 8, statutory citations should be followed by “Stats.”. These citations should follow the form of the statutory citation in SECTION 11. [s. 1.15 (2) (b) 1., Manual.]

e. The agency should include each newly created provision under SECTION 1 because the treatment is the creation of the new chapter in its entirety. Under this format, the effective date would be provided under SECTION 2. [s. 1.04 (2) (b), Manual.]

f. Each citation to a provision of the administrative code should include the appropriate designation. For example, in SECTION 3 of the proposed rule, the citation should read as follows:

“...with the products and practice requirements of s. DFI-Sec. 11.02 (1) (b)...”.

[s. 1.15 (2), Manual.]

- g. The numbers in SECTION 10 should use closed parentheses. [s. 1.10, Manual.]

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

- a. The term “broker-dealer” is used in the rule but is not defined. The agency could define the term in s. DFI-Sec. 11.01 by referencing s. 551.102 (4), Stats.

- b. In SECTION 2, the agency could clarify that the continuing education requirements apply to an investment adviser representative who is *required* to comply with the registration requirements under s. 551.404, Stats.

- c. In SECTION 3 of the proposed rule, a period is missing after “educational materials”.

- d. Throughout the proposed rule, the agency should consider the use of acronyms. Acronyms should only be used to improve readability and should not be used interchangeably with the full term. The agency generally uses “IAR”, except in SECTION 7 of the proposed rule, where both “IAR” and “investment adviser representative” are used. [s. 1.07 (2), Manual.]

- e. Similarly, SECTION 7 refers to “CE Inactive”. The agency should make clear what is meant by that term and whether “inactive” should be capitalized.

- f. Also in SECTION 7, does the proposed rule intend to apply to both investment advisers and investment adviser representatives? If so, the agency may wish to discuss the terms in separate subsections to ensure clarity.

- g. The agency may wish to consider clarifying how an investment adviser representative reports compliance with the continuing education requirements. For example, the agency may wish to have investment advisers submit with their registration renewal a form that lists completed continuing education credits approved by NASAA. SECTION 7 discusses failure to complete or file a report but the rest of the proposed rule does not address how an investment adviser representative files a report; instead, it appears that reports are completed and submitted by the authorized provider. If continuing education credits are reported by the authorized provider, the title to SECTION 7 should be changed to clarify that the section applies to investment adviser representatives who choose not to comply with continuing education requirements and does not address reporting requirements.