

Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS

RULE REPORT TO THE LEGISLATURE
Clearinghouse Rule 21-057

Creating continuing education requirements for investment adviser representatives, ch. DFI-Sec 11 of the Wisconsin Administrative Code.

Attached: Proposed rule, fiscal estimate and economic impact analysis, and Clearinghouse report to agency.

Governor's approval: The governor approved this rule October 7, 2021.

Basis and purpose of the proposed rule: The Department of Financial Institutions, Division of Securities, proposes an order to create ch. DFI-Sec 11.

The proposed rule order seeks to create continuing education requirements for investment adviser representatives (IARs) consistent with the model rules for state-registered IARs adopted by the North American Securities Administrators Association (NASAA).

For IARs who are registered or required to be registered in this state, the proposed rule would implement the following provisions and have the following effects:

- 1) IARs would be required to earn 12 credits of continuing education (CE) each year, including at least 3 hours on the topic of ethics. Other required topics are professional responsibility and products and practice content. These CE requirements will help ensure that professionals' competencies remain up-to-date; inform them of relevant changes in industry practices, products, and governing law; reinforce ethics rules and expectations; and foster public confidence in registered professionals as a whole.
- 2) Some registered IARs who complete CE courses through the Financial Industry Regulatory Authority (FINRA), a self-regulatory organization, may earn up to 6 hours of CE credits that will apply to certain requirements created in this rule. Those IARs, as agents of FINRA member broker-dealers, are subject to FINRA CE requirements.
- 3) An IAR who fails to comply with the proposed rule's CE requirements by the end of a reporting period may renew the IAR's license at the close of that period under the registration status "CE Inactive." The IAR must maintain CE Inactive registration status until the completion of all required CE credits. An IAR with CE Inactive registration status at the close of the next reporting period is not eligible for IAR registration or renewal of an IAR registration.

- 4) An IAR who was previously registered in this state and became unregistered must complete all required CE credits for all reporting periods occurring between the time that the IAR became unregistered and the time that the individual registered again.
- 5) An IAR who is registered as an IAR in the IAR's home state is in compliance with this state's CE requirements if the IAR meets the IAR's home state requirements, which must be at least as stringent as those in Wisconsin.
- 6) An IAR who holds a professional designation that qualifies the IAR for a registration examination waiver under DFI rules is considered to have met the CE requirements under certain specified conditions.
- 7) An IAR who earns more than 12 credits in a reporting period may not carry those credits forward to a future year.
- 8) The proposed rule authorizes the Administrator of the Division of Securities to waive any requirements specified in the rule.

Summary of comments, agency's response, and explanation of any modifications as a result of comments or testimony:

The Department received one written comment to the proposed rule. A representative of LPL Financial, LLC, Mr. John Cronin, expressed support for the concept of IAR CE and expressed appreciation to NASAA and the Department for not only filling the void in this area, but for engaging the securities industry throughout the process.

In Mr. Cronin's written comments, he stated the following: "LPL supports the concept of IAR CE and appreciates NASAA and Wisconsin for filling the void. We are also appreciative of the efforts NASAA and Wisconsin have made to engage the industry in dialogue prior to and at the launch of this program.

LPL is concerned that even minor amendments to the Model will create significant operational challenges to firms and their ability to manage registrations and conduct oversight of the registration status of our IARs. We understand Wisconsin has altered the Model only in accordance with Wisconsin rule making requirements and in such a way as to not create significant differences from the Model."

In his comments, Mr. Cronin also requested that DFI monitor the amount of CE available to IARs to ensure there is sufficient content to meet the needs of all IARs. The Department fully intends to monitor the available CE content to address this concern, and DFI has pointed out that NASAA has stated its intent to engage a "wide range of vendors" – including state regulatory agencies such as DFI – to offer approved continuing education courses for IARs. DFI is confident that there will be an ample supply of no cost or low cost (less than \$100) CE content available for IARs. See NASAA's Frequently Asked Questions: Investment Adviser Continuing Education, available at <https://www.nasaa.org/industry-resources/investment-advisers/resources/iar-ce-faq>.

Persons appearing or registering for or against the rule at hearing:

No persons registered for or against the rule at the hearing. Mr. Cronin was present at the (Microsoft Teams) hearing and expressed his comments via the email submission to DFI described above.

Changes to analysis or fiscal estimate: None.

Response to legislative council recommendations: The recommendations were adopted in whole, with a few stylistic modifications.

Final regulatory flexibility analysis, changes to energy impact report, housing impact analysis, and response to any report prepared by the SBRRB: Not applicable