

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 98-114

### 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 September 1998.]**

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

a. In s. DFI-Sec 1.02 (5) (c) 2. (intro.), the added language should be replaced by “subd. 1.”.

b. In s. DFI-Sec 1.02 (14) (intro.), a colon should be inserted after “Stats.” The definitions following the (intro.) should be put in alphabetical order, beginning with ““Client” has the meaning given in . . .”; that is, the “A” or “An” at the beginning of defined terms should be deleted. In addition, all of the definitions in s. DFI-Sec 1.02, including the new definitions, should be alphabetized.

In par. (a) 2., “employee” should be “employe” and “employees” should be “employes.” The entire rule should be reviewed for this change.

In par. (b), the “except that” clause needs to be redrafted to fit more clearly into the definition. It appears to say “except that “client” does not include a person who is not a resident of the United States if the supervised person decides not to count that client as a client.” This is not suggested language, just a reiteration of what the language appears to say. The clause should be redrafted beginning with “except that “client” . . .”.

In par. (c) 2., the parentheses should be replaced by commas.

c. In s. DFI-Sec 1.02 (15), a comma should be inserted after “1 to 9”.

d. The material in s. DFI-Sec 1.02 (16) is not a definition and should therefore be placed in a different section.

e. In s. DFI-Sec 1.02 (17) and (18), “for purposes of the licensing provisions of ch. 551, Stats., and related rules in chs. DFI-Sec 1 to 9,” is not needed and should be deleted. Current s. DFI-Sec 1.02 (intro.) states the applicability of all terms that are defined in that section.

f. In s. DFI-Sec.1.02 (18), “such assets” should be replaced by “customer funds or securities.”

g. The treatment clause for SECTION 15 should state: “SECTION 15. DFI-Sec 2.04 is created to read:”. Also, in s. DFI-Sec 2.04 (1) (a) and (2), “there shall be filed” should be replaced by “the issuer shall file.” In the second sentence of par. (1) (a), “Additionally” should be deleted.

Subsections (2), (3) and (4) specify that a “notice” has to be filed but does not specify what it is notice of (i.e., “notice of . . .”); these provisions should be clarified.

h. In SECTION 23, the title does not have to be underlined since it is being repealed and recreated. [See s. 1.06 (5), Manual.]

i. In SECTION 26, “an” should be inserted after “sub (2).”.

j. In several treatment clauses that involve renumbering a rule, the prefix “DFI-Sec” should be inserted before the number of the renumbered rule. For example, in the treatment clause for SECTION 27, “DFI-Sec” should be inserted before “5.02 (3).” Also, a period is needed at the end of SECTION 27.

k. In s. DFI-Sec 5.02 (4), “such” should be replaced by “that” in two places. The same comment applies to s. DFI-Sec 5.03 (7).

l. In s. DFI-Sec 5.04 (7), “at the same time it files” should replace “incident to.” In sub. (8), “with the division at the same time it files” should replace “contemporaneously with its filing.”

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

a. Section DFI-Sec 1.02 (5) (c) 2. refers to “Rule 206 (4)-3. of the investment advisers act of 1940.” The U.S. Code cite to this provision should be included. [See s. 1.07 (3), Manual.]

b. In s. DFI-Sec 5.07 (2), “s. 551.32. (1m) (a)” should be “s. 551.32 (1m) (a)” (i.e., delete the period after “551.32”). The same comment applies to the reference to that provision in sub. (4) of that section. Also in sub. (4), second sentence, the citation should read “9.01 (1) (b) 20.” (i.e., insert a period after the subdivision number).

c. Although s. DFI-Sec 9.01 (1) (intro.) states that the forms listed in that subsection may be obtained from the division of securities in Madison, the division should consider listing

its address and telephone number in a note. Since some of these forms are available on the Internet, the division should consider listing its web site in the note. [See s. 1.09 (2), Manual.]