

Clearinghouse Rule 00-117



State of Wisconsin Department of Financial Institutions

Tommy G. Thompson, Governor

John F. Kundert, Secretary

November 14, 2000

Office of the Secretary of State
30 W. Mifflin St.
Madison, WI 53703

✓ Revisor of Statutes Bureau
131 W. Wilson St., Suite 800
Madison, WI 53703-3233



Re: Wisconsin Division of Securities, Department of Financial Institutions,
Filing of Certified Copies of Final Order Adopting Rules/Clearinghouse Rule 00-117

Gentlemen and Mesdames:

Pursuant to the requirements of sec. 227.20, Wis. Stats., a certified copy is herewith filed with each of your offices of the above-referenced Final Order Adopting Rules in the form prescribed by sec. 227.14, Wis. Stats., as signed and issued today by Division Administrator Patricia Struck.

Also attached is a copy of the Report prepared by this Division relating to the final rules, together with a copy of a fiscal estimate and a copy of the Wisconsin Legislative Council Rules Clearinghouse Report.

If you have any questions, please call me at 266-3414.

Very truly yours,

Randall E. Schumann
Legal Counsel for the Division

RES

Enclosures

cc: Patricia D. Struck, Administrator, Division of Securities
David Anderson, DFI Executive Assistant
Mark Schlei, DFI Deputy General Counsel



1-1-01

Division of Securities

Mail: PO Box 1768 Madison, WI 53701-1768

Voice: (608) 266-1064

Fax: (608) 256-1259

Courier: 345 W. Washington Ave. 4th Floor Madison, WI 53703

TTY: (608) 266-8818

Internet: www.wdfi.org

CERTIFICATE

State of Wisconsin)
Department of Financial Institutions)ss.
Division of Securities)

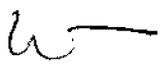
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Patricia D. Struck, Administrator of the Department of Financial Institutions, Division of Securities, and custodian of the official records of the Division, do hereby certify that the annexed rules under Chapter 551, Wis. Stats., the Wisconsin Uniform Securities Law, relating to securities registration exemptions and to securities broker-dealer, agent, investment adviser and investment adviser representative licensing procedures, record-keeping requirements, and rule of conduct provisions, were duly approved and adopted by the Division on November 14, 2000.

I further certify that this copy has been compared by me with the original on file in this Division and that it is a true copy of the original and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set
my hand and affixed the official seal of the
Department of Financial Institutions, Division of Securities,
at 345 West Washington Avenue in the City of Madison,
this 14 day of November, 2000.

[SEAL]



Patricia D. Struck
Administrator
Division of Securities



**FINAL ORDER OF THE
DIVISION OF SECURITIES
DEPARTMENT OF FINANCIAL INSTITUTIONS
STATE OF WISCONSIN
AMENDING AND ADOPTING RULES**

To renumber DFI-Sec 2.02(4)(intro.), (a) to (h), and 5.03(1)(o); to amend DFI-Sec 2.02(1), (4)(a)(intro.), (9)(c) and (m), 3.03(3), 4.03(1)(j), 4.06(2)(i), 5.03(1)(h), (3)(c) and (5), and 7.02(1)(b); and to create 5.03(1)(o), 5.05(13) and (14); relating to securities registration exemptions, and to securities broker-dealer, agent, investment adviser and investment adviser representative licensing procedures, record-keeping requirements, and rule of conduct provisions.

Pursuant to sections 551.63(1), (2) and (3), 551.23(8)(f) and (g), 551.23(18), 551.26(1), 551.32(7), 551.33(1), (2) and (6), and 551.53(1)(b), Wis. Stats., the Division of Securities of the Department of Financial Institutions amends and adopts rules interpreting those sections as follows:



DEPARTMENT OF FINANCIAL INSTITUTIONS

DIVISION OF SECURITIES

2000 Rule Revision

SECTION 1. DFI-Sec 2.02(1)(intro.) is amended to read:

DFI-Sec 2.02(1). An "isolated nonissuer transaction" within the meaning of s. 551.23(1), Stats., ~~includes~~ means :

ANALYSIS: The amendment to this definitional rule relating to the so-called "isolated nonissuer transaction" securities registration exemption in sec. 551.23(1), Stats., substitutes for the imprecise terminology "includes", the term "means" to thereby provide specificity by limiting the scope of the definition to only the fact categories set forth in paragraphs (a) and (b) [both of which have been in existence for over 20 years].

SECTION 2. DFI-Sec 2.02(4) (intro.), 2.02(4)(a) to (e), 2.02(4)(f), 2.02(4)(g), and 2.02(4)(h) are renumbered DFI-Sec 2.02(4)(a), 2.02(4)(a)1. to 5., 2.02(4)(a)7., 2.02(4)(b), and 2.02(4)(a)6., respectively.

ANALYSIS: This series of renumberings of the rules under the so-called "institutional investor" exemption in sec. 551.23(8), Stats., is necessary to clarify that the current rule subsections in

paragraphs DFI-Sec 2.02(4)(a) to (f) and (h) [that designate additional categories of entities as "financial institutions" or "institutional investors"] relate solely to the statute provisions of sec. 551.23(8)(a) to (f), Stats., and particularly s. 551.23(8)(f), Stats., which provides rule authority to the Division to make such designations. Such renumberings, [together with the amendment in the following SECTION to current rule DFI-Sec 2.02(4)(intro.) (as renumbered to be DFI-Sec 2.02(4)(a) (intro.)] will clarify and provide that the current rule in DFI-Sec 2.02(4)(g) [as renumbered to be DFI-Sec 2.02(4)(b)] concerning so-called "individual accredited investors"--which is a totally different exemption concept from the "institutional investor" category of exempt account-- relates solely to the statute provision of sec. 551.23(8)(g), Stats., that created the exemption category of "individual accredited investor".

SECTION 3. DFI-Sec 2.02(4)(a)(intro.), as renumbered, is amended to read:

DFI-Sec 2.02(4)(a). A "financial institution or institutional investor" within the meaning of s. 551.23(8) (f), Stats., includes:

ANALYSIS: See the ANALYSIS for the preceding SECTION.

SECTION 4. DFI-Sec 2.02(9)(c) is amended to read:

DFI-Sec 2.02(9)(c). Any transaction pursuant to an offer to existing security holders of the issuer, other than an entity designated in s. 551.52(1)(b) Stats., and to not more than 10 other persons in this state less the number of persons in this state with whom the issuer has effected any transactions during the period of 12 months preceding the offer pursuant to s. 551.23(10) or (11), Stats., excluding persons exempt under s. 551.23(8), Stats., if no commission or other remuneration other than a standby commission is paid or given directly or indirectly for soliciting any security holder in this state; and if the issuer files with the division prior to the offering a notice specifying the terms of the offer, including any prospectus, circular or other material to be delivered to offerees in connection with the transaction and such other information as the division may require, and the division does not by order disallow the exemption within 10 days.

ANALYSIS: The amendment to this registration exemption under sec. 551.23(18), Stats. [which permits combined usage of the "existing securityholder" exemption concept embodied in sec. 551.23(12), Stats., with the "10 offeree per 12 month period" exemption concept embodied in sec. 551.23(11), Stats.], adds identical language to that contained in sec. 551.23(11), Stats., to provide that for purposes of the 10 offeree computation, the issuer does not have to count the (so-called "exempt account") persons specified under sec. 551.23(8), Stats.

SECTION 5. DFI-Sec 2.02(9)(m) is amended to read:

DFI-Sec 2.02(9)(m). Offers or sales of a security by an issuer pursuant to a written compensatory benefit plan including, without limitation, a purchase, savings, option, bonus, stock appreciation, profit-sharing, thrift, incentive, pension or similar plan, and interests in any such plan, provided that the offers and sales qualify for use of the registration exemption in rule 230.701 under section ~~3(b)~~ 28 of the securities act of 1933.

ANALYSIS: This amendment revises the cited number of the federal Securities Act of 1933 statute section cross-referenced in the rule to reflect the amendment made by the U.S. Securities and Exchange Commission in Release No. 33-7645, effective February 25, 1999, to the federal Rule 701 employee benefit plan registration exemption, that changed the statutory authority for the rule from Section 3(b) to Section 28 of the Securities Act of 1933.

SECTION 6. DFI-Sec 3.03(3) is amended to read:

DFI-Sec 3.03(3) The prospectus shall contain a full disclosure of all material facts relating to the issuer and the offering and sale of the registered securities. A prospectus meeting the requirements under the securities act of 1933 that receives full review by the U.S. securities and exchange commission shall not be subject to disclosure adequacy review or comment by the division. If the offering is being made pursuant to use of either Regulation A or Rule 504 of Regulation D under the securities act of 1933 or Rule 147

under section 3(a)(11) of the securities act of 1933, the form U-7 disclosure document as adopted in amended form on September 28, 1999 by the North American Securities Administrators Association, Inc. may be used.

Note: The Form U-7 disclosure document is available for review at, and a copy may be downloaded at no charge from, the NASAA Internet Website at www.nasaa.org.

ANALYSIS: The amendment to this securities registration rule setting forth prospectus requirements provides that the Form U-7 disclosure document that may be used for purposes of the rule is the amended version adopted September 28, 1999 by vote of the NASAA membership, including Wisconsin. A Note to the rule is added to identify the Internet Website address of NASAA where a copy of the Form (and the Instruction Manual) can be reviewed and downloaded at no charge.

SECTION 7. DFI-Sec 4.03(1)(j) is amended to read:

DFI-Sec 4.03(1)(j). A separate file containing a copy of all complaints made or submitted by customers, and all investigative inquiries made by law enforcement and securities regulatory authorities to the broker-dealer or its agents relating to securities transactions, and containing evidence, including representative copies, of the responses made by the broker-dealer and its agents to the complaint or investigation. In this paragraph, "complaint" means any written or oral statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of persons under the

control of the broker-dealer in connection with the solicitation or execution of any securities transaction or the disposition of securities or funds of that customer that would constitute a violation of ch. 551 Stats., or any rule or order thereunder , or constitute an unethical business practice under s. DFI-Sec 4.06.

ANALYSIS: The Division staff has identified many instances where broker-dealers do not include in their complaint file (currently required to be maintained under this recordkeeping rule), complete information regarding investigations instituted by any law enforcement or securities regulatory authority involving the broker-dealer or its agents, regardless of whether the investigations involve transactions in customer accounts. This amendment will provide and make clear that inquiries from other securities regulators or law enforcement authorities relating to the securities business of the broker-dealer or its agents must be maintained in the complaint file for ready access by the Division staff in conducting either periodic or for-cause office examinations. According to the U. S. Securities and Exchange Commission, under federal rule 17a-3 of the Securities Exchange Act of 1934, such investigative inquiries by law enforcement and securities regulatory authorities are required to be kept and maintained by broker-dealers, and made available for inspection.

SECTION 8. DFI-Sec 4.06(2)(i) is amended to read:

DFI-Sec 4.06(2)(i). Engaging in any of the practices specified in sub. (1) (a), (b), (c), (d), (e), (f), (g), (h), (o), (p), (q), (r) and (t).

ANALYSIS: This amendment would add to the list of agent Prohibited Business Practices (by means of a cross-reference to the existing rule applicable to broker-dealers) causing any delay in the

execution of customer orders, payment of free credit balances from customer accounts, or transfer of securities and balances to another broker-dealer. In the Division staff's experience dealing with customer complaints on this subject, the most common problems involve delays by an agent in forwarding customer funds for direct subscription investments, or delays in the entry of orders for purchases and sales. Current rule DFI-Sec 4.06(1)(a) places sole responsibility for delays on the broker-dealer. This proposed rule change would extend responsibility to an agent if in a given situation the agent was the primary cause of the delay.

SECTION 9. DFI-Sec 5.03(1)(h) is amended to read:

DFI-Sec 5.03(1)(h). Copies A separate file containing a copy of all complaints of made or submitted by customers relating to investment activities for customers, and all investigative inquiries made by law enforcement and securities regulatory authorities to the investment adviser or its investment adviser representatives regarding their securities and investment advisory business, and containing evidence, including representative copies, of the responses made by the investment adviser and its investment adviser representatives to the complaint or investigation. In this paragraph, "complaint" means any written or oral statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of persons under the control of the investment adviser in connection with providing investment advice or placing orders on behalf of customers.

ANALYSIS: Paralleling the equivalent proposed amendment to the broker-dealer recordkeeping rule in DFI-Sec 4.03(1)(j) in a preceding SECTION, this amendment will provide and make clear that inquiries from other securities regulators or law enforcement

authorities to an investment adviser or its representatives relating to their securities and investment advisory business (regardless of whether the investigations involve transactions in customer accounts), and all responses thereto, must be maintained in the complaint file for ready access by the staff in conducting either periodic or for-cause office examinations.

SECTION 10. DFI-Sec 5.03(1)(o) is renumbered DFI-Sec 5.03(3)(c), and as renumbered is amended to read:

DFI-Sec 5.03(3)(c). ~~A record containing~~ Written information concerning a customer's net worth, annual income and other financial information, investment objectives and experience and such other information necessary ~~for~~ and relied upon by the investment adviser to determine the suitability of any investment recommendations recommendation or investment advice to the customer. ~~The record-~~ written information shall be updated when the investment adviser receives information from the customer that results in material changes to the customer's annual income, net worth, investment objectives or other changes affecting the investment adviser's ability to make suitable recommendations for the customer as required under s. DFI-Sec 5.06(4).

ANALYSIS: This SECTION rennumbers and amends the existing investment adviser recordkeeping rule in DFI-Sec 5.03(1)(o) to accomplish the following: (1) Move the rule to become paragraph (c) of DFI-Sec 5.03(3) to thereby no longer have the customer suitability information requirements under the rule be applicable to all investment advisers. Rule DFI-Sec 5.03(3)--which applies to those investment advisers who provide regular and ongoing supervision and management of customer accounts, and who may

have discretionary authority to make investment decisions for clients--is the more appropriate section for this requirement because they are the type of advisers that need to obtain from customers the information required under the rule to establish the suitability of recommendations. By having the customer information requirement applicable only to those advisers designated under DFI-Sec. 5.03(3), other types of advisers who do not provide ongoing advisory services would not be required to obtain, maintain, and update such information. (2) The term "information" is substituted for the term "record" currently used in the rule to provide flexibility to enable advisers to obtain, maintain and update customer suitability information in ways other than the traditional new account form format. By using the "written information" terminology rather than the term "record" in the rule, advisers can maintain the required information in any written form (including electronic) so long as the information is readily accessible both for use by the adviser as well as for review purposes by the firm's supervisor or by regulatory authorities.

SECTION 11. DFI-Sec 5.03(1)(o) is created to read:

DFI-Sec 5.03(1)(o). A record of the initial offer, evidenced by the client's written acknowledgement, as well as the annual offer, to each client of the adviser's brochure or other document used to comply with s. DFI-Sec 5.05(8).

ANALYSIS: This new rule requires all investment advisers to both: (1) maintain a record of the initial offer to customers of the brochure or disclosure document (describing the adviser and its business) before or at the time of entering into an advisory relationship with that customer, evidencing compliance with the

U.S. Securities & Exchange Commission's so-called "brochure rule" that is also codified in DFI-Sec 5.05(8); and to (2) maintain a record evidencing compliance with the federal and rule DFI-Sec 5.05(8) requirements to annually provide a copy of the latest brochure or disclosure document to each existing advisory client.

SECTION 12. DFI-Sec 5.03(5) is amended to read:

DFI-Sec 5.03(5). Every branch office as defined in s. DFI-Sec 1.02(7)(b), of a licensed investment adviser whose principal office is in this state, shall prepare and keep current the records described in subs. (1)(c), (f), (g), (h), (k) ; and (L) ; ~~and (o)~~ and (3)(a), ~~and (b)~~ and (c).

ANALYSIS: These amendments are necessary to reflect the renumbering in a preceding SECTION of rule DFI-Sec 5.03(1)(o) to be DFI-Sec 5.03(3)(c) which is cross-referenced in this rule.

SECTION 13. DFI-Sec 5.05(13) is created to read:

DFI-Sec 5.05(13). Each investment adviser shall provide clients with a written notification or invoice of fees due for investment advisory services. The notification or invoice shall specify the time period covered by the fee for ongoing supervisory or management services or shall detail the services rendered for preparation of financial plans or analyses.

ANALYSIS: The Division staff has recently discovered as a result of office examinations, several instances involving investment advisers not providing clients with formal invoices or bills detailing either the fees being charged for specific services or the time periods involved. This issue is of special concern where

advisers have authorization to deduct fees directly from client brokerage or mutual fund accounts. The purpose of this new Rule of Conduct provision is to require investment advisers to provide specific written notification to customers of when, why and how much in fees they are being charged, regardless of the services provided or the method of payment.

SECTION 14. DFI-Sec 5.05(14) is created to read:

DFI-Sec 5.05(14). Each investment adviser shall provide to each customer at either of the following times, its brochure or other document used to comply with s. DFI-Sec 5.05(8):

- (a) At least 48 hours prior to entering into a contract with the customer; or
- (b) At the time of entering into a contract with the client, provided the contract states that the customer may terminate the contract without penalty within 5 business days of entering into the contract.

ANALYSIS: This rule restates the requirement (found in U.S. Securities & Exchange Commission Rule 204-3(b) under the Investment Advisers Act of 1940, and cross-referenced in DFI-Sec 5.05(8) as cited) for delivery to customers by investment advisers of the brochure or other disclosure document describing the adviser's business. Because a number of contracts reviewed by the Division's staff in license application reviews, as well as incident to office examinations, have not made it clear that if the brochure is received at the time of signing the contract, the customer still has a so-called "free look" for five business days without any fee or penalty, the language in new paragraph (b) of the proposed rule

particularizes the federal Rule requirement regarding the 5-day-cancellation-without-fee/penalty provision.

SECTION 15. DFI-Sec 7.02(1)(b) is amended to read:

DFI-Sec 7.02(1)(b). Advertising published or circulated relating to a security exempted under s. 551.22, Stats., except under DFI-Sec 2.01(4)(a); or relating to a transaction exempted under s. 551.23(4), (5), (6), (7), or (8), Stats., or s. DFI-Sec 2.02(9)(m); or relating to a transaction exempted under s. 551.23(12), (13) or (14), Stats., if the issuer has any securities registered under section 12 of the securities exchange act of 1934 or exempted from registration by section 12 (g) (2) (G) thereof or is an investment company registered under the investment company act of 1940; or relating to a transaction exempt from registration under s. DFI-Sec 2.028 where the advertising has been filed with the division under s. DFI-Sec 2.028 ~~(7)~~ (8)(c); or relating to a transaction subject to the filing requirements of section 14 (d) of the securities exchange act of 1934 ~~5-1~~ provided the transaction is not subject to the filing requirements of s. DFI-Sec 6.05(1).

ANALYSIS: This SECTION makes the following amendments to the current rule in DFI-Sec 7.02(1)(b) that lists various exclusions from the advertising filing requirement of s. 551.53(1)(b), Stats.: (1) Adds to the listing of various securities registration exemptions for which advertising materials are exempt from having to be separately filed, a cross-reference to the exemption in rule DFI-Sec 2.02(9)(m) which accords an automatic/self-executing registration

exemption for employee benefit plans that qualify for the federal registration exemption in rule 230.701 under section 28 of the Securities Act of 1933. Because the Wisconsin securities registration exemption covering the offer or sale of securities in Wisconsin for federal Rule 701 exempt employee plans does not necessitate any filing with the Division, there is no regulatory purpose served by requiring the filing of advertising materials relating to such plans under s. 551.53(1)(b), Stats. (2) Corrects the cross reference to rule DFI-Sec 2.028 to specify the proper advertising filing paragraph in sub.(8); and (3) Corrects the punctuation preceding the last "provided that" clause in the rule to clarify that it is not a stand-alone provision, but rather modifies the language immediately preceding it.

* * * * *

The rules and amendments contained in this Order shall take effect as provided in s. 227.22 (2)(intro.), Stats., on the first day of the month following the date of publication in the Wisconsin Administrative Register.

DATED at Madison, Wisconsin, this 14th day of November, 2000.

[SEAL]



PATRICIA D. STRUCK
Administrator
Division of Securities

**REPORT PREPARED BY THE
DEPARTMENT OF FINANCIAL INSTITUTIONS, DIVISION OF SECURITIES
RELATING TO FINAL FORM OF YEAR 2000 AMENDMENTS TO
THE RULES OF THE DIVISION OF SECURITIES**

(a) Statement Explaining Need for Rules

The rulemaking procedures under Chapter 227 of the Wisconsin Statutes are being implemented for the purpose of effectuating the Division's Year 2000 version of its annual review of the Rules of the Division of Securities. The Division's annual rule revision process is conducted for the following purposes: (1) developing new securities registration exemptions and making modifications to several existing securities registration exemptions to reflect new legal or interpretive issues under the federal and state securities laws; and (2) adopting new rules, or amending existing rules, relating to the securities broker-dealer, agent, investment adviser, and investment adviser representative licensing procedures, record-keeping requirements and rules of conduct provisions, to effectively regulate new securities licensing developments that have occurred in the securities industry and marketplace that require regulatory treatment.

Revisions are being made in a total of 15 different Sections. A summary of the subject matter and nature of the more significant rule revisions follows:

- 1) Revising the "isolated nonissuer transaction" exempt transaction rule in DFI-Sec 2.02(1)(intro.) to clarify that only the specific examples set forth in sub. (l)(a) and (b) qualify for purposes of the rule;
- 2) Renumbering certain of the rules under the so-called "institutional investor" exemption in 551.23(8), Wis. Stats., to clarify that the rules in DFI-Sec 2.02(8)(a) to (f) as well as (h), relate solely to the statute exemptions in 552.23(8)(a) to (f), Wis. Stats., and that the specific "individual accredited investor" exemption rule DFI-Sec 2.02(4)(g) relates solely to its corresponding statute registration exemption in 551.23(8)(g), Wis. Stats.
- 3) Adding to the combined 10 offeree/existing securityholder registration exemption in DFI-Sec 2.02(9)(c), equivalent language to that contained in the component exemption in 551.23(11), Wis. Stats., to provide that offers to institutional investors listed in 551.23(8), Wis. Stats., are not counted for purposes of the rule;
- 4) Adding to the advertising filing exclusion in DFI-Sec 7.02(1)(b), materials used in connection with use of the registration exemption in DFI-Sec 2.02(9)(m) for an employee benefit plan that qualifies for (automatic) use of the federal securities exemption under Rule 701 of the Securities Act of 1933;
- 5) Amending the broker-dealer and investment adviser record-keeping rules in DFI-Sec 4.03 and 5.03 (which relate to retention by licensees of a separate file of customer complaints), to also require retention of investigative inquiries directed to the licensee by any securities regulatory authority or any law enforcement authority regarding the licensee's securities business;

- 6) Moving the existing investment adviser record-keeping rule in DFI-Sec 5.03(1)(o) [requiring creation and retention of records relating to customers' financial condition and investment objectives] to be under sub. (3) to thereby make the requirement applicable only for those advisers who provide regular and ongoing supervision and management of customer accounts, and/or have discretionary authority;
- 7) Creating both a new investment adviser record-keeping rule, as well as a rule of conduct provision, relating to a licensee's compliance with the federal "brochure rule " [which is incorporated by reference in DFI-Sec 5.05(8)] to do the following (i) provide that advisers need to maintain a record of the initial, as well as the required annual, provision of the brochure to customers, and to (ii) specify the time frames within which the brochure must be provided to customers.

Each Section that adopts, amends or repeals a rule is followed by a separate Analysis which discusses the nature of the revision as well as the reason for it.

* * * *

(b) Explanation of Modifications Made as a Result of the Public Hearing and Comment Process

- As a result of the public hearing and comment process, SECTION 3 of the Public Comment Draft [that would have made amendments to the securities registration exemption rule in DFI-Sec 2.02(4)(a)5 (as renumbered)] was withdrawn. The Comment Draft amendments would have restricted scope of that exemption rule to permit use only by entities having all of their equity owners being persons designated in s. 551.23(8)(a) to (f)--thus excluding individual accredited investors designated in s. 551.23(8)(g). By withdrawing the Comment Draft amendments, the existing Wisconsin rule provision will continue to parallel the equivalent federal rule 501(a)(8) under Regulation D of the Securities Act of 1933 which does not distinguish between entities owned exclusively by institutional accredited investors and entities owned exclusively by individual accredited investors. Such will thereby provide for consistency with federal regulatory requirements per s. 551.63(1), Stats.
- As a result of the public hearing and comment process, a new SECTION 3 was added to the Proposed Final Form of the Division's rule revisions that will amend DFI-Sec 2.02(4)(a)(intro.)--one of the several rule provisions renumbered in SECTION 2. The new SECTION 3 enhances the clarifications made by the renumberings in SECTION 2 by adding "(f)" to the s. 551.23(8) statute citation cross-referenced therein. Such addition will provide clarification by expressly providing that the rules listed in subpars. 1 to 7 of DFI-Sec 2.02(4)(a) are adopted pursuant to the statutory authority under s. 551.23(8)(f), Stats., to designate by rule "any financial institution or institutional investor," and thus cannot be regarded as rules adopted under s. 551.23(8)(g), Stats.

* * * *

(c) List of Persons Appearing or Registering at Public Hearing Conducted by Administrator Patricia D. Struck, Division of Securities, Department of Financial Institutions, as Hearing Officer, and Comment Letters Received.

- Randall E. Schumann, Legal Counsel for the Division of Securities, Department of Financial Institutions, made an appearance on behalf of the Division's staff to submit documents and information for the record and to be available both to ask questions and to respond to questions regarding hearing testimony.
- Kenneth L. Hojnacki, Director of the Regulation & Licensing Section for the Division of Securities, Department of Financial Institutions, was present on behalf of the Division's staff to be available both to ask questions and to respond to licensing-related questions regarding hearing testimony.

* * * *

Comment Letters Received

- (1) Comment letter submitted via e-mail dated August 10, 2000 from Attorney Alan Parness, New York, New York.
- (2) Comment memorandum submitted via e-mail dated August 18, 2000 from Division Licensing & Regulation Section Examiner Nancy Jackson.

* * * *

(d) Response to Legislative Council/Rules Clearinghouse Report Recommendations

(1) Acceptance of recommendations in whole:

Under 2. Form, Style and Placement in Administrative Code

- Consistent with the Rules Clearinghouse comment in paragraph a. regarding DFI-Sec 5.03(5), the comma after the notation "(k)" was replaced by the word "and", and the comma after the notation "(L)" was deleted.
- Consistent with the Rules Clearinghouse comment in paragraph b. regarding DFI-Sec 7.02(1)(b), in the last sentence of the Analysis, the phrase "subsection in paragraph (8)(c)" was replaced by the phrase "paragraph in sub. (8)".

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

- In response to the Rules Clearinghouse question/comment in paragraph b. regarding DFI-Sec 4.03(1)(j), the Division hereby confirms that the comma after "customers" in the second line need not be deleted because the phrase in the third line does not, in fact, apply to the clause in lines 1 and 2 ending in "customers."

(2) Rejection of recommendations and reasons therefor:

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

- The Rules Clearinghouse comment in paragraph a. that suggested deleting a comma in the third line of DFI-Sec 2.02(4)(a)5. was not adopted because the entire SECTION that contained proposed revisions to such rule was withdrawn by the Division.

* * * *

- (e) No final regulatory flexibility analysis is included on the basis that the Division of Securities has determined, after complying with s. 227.016(1) to (5), Wis. Stats., that the rules will not have a significant economic impact on a substantial number of small businesses.

* * * *

FISCAL ESTIMATE

DOA-2048 N(R10/98)

 ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject Proposed amendments to Rules of the Division of Securities
Under Chapters DFI-Sec 2,3,4,5 and 7, Wis. Adm. Code

Fiscal EffectState: No State Fiscal EffectCheck columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.
 Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

 Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation
 Decrease CostsLocal: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
None
Assumption Used in Arriving at Fiscal Estimate

This fiscal estimate relates to the annual revision of the Rules of the Division of Securities under the Wisconsin Uniform Securities Law for the year 2000. None of the proposed rule revisions have any fiscal effect, such that there are no state fiscal effects, nor any local government costs.

Long-Range Fiscal Implications

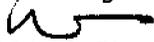
None

Agency/Prepared by: (Name & Phone No.)

DFI/Division of Securities

Randall Schumann, Division Counsel 266-3414

Authorized Signature/Telephone No.


 Patricia D. Struck, Administrator 266-3432

Date

8-9-2000

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/98)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.

Amendment No.

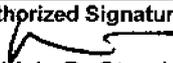
Subject Proposed amendments to Rules of the Division of Securities
under Chapters DFI-Sec 2,3,4,5 and 7, Wis. Adm. Code

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$ 0	\$ -0
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs	0	-0
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$ 0	\$ -0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS	0	0-
SEG/SEG-S		-
State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	0	0
SEG/SEG-S		-
TOTAL State Revenues	\$ 0	\$ -0

NET ANNUALIZED FISCAL IMPACT

	STATE		LOCAL	
NET CHANGE IN COSTS	\$	0	\$	0
NET CHANGE IN REVENUES	\$	0	\$	0

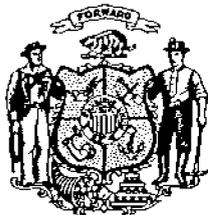
Agency/Prepared by: (Name & Phone No.) DFI/Division of Securities Randall E. Schumann, Division Counsel 266-3414	Authorized Signature/Telephone No.  Patricia D. Struck, Administrator 266-3432	Date 8-9-2000
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WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

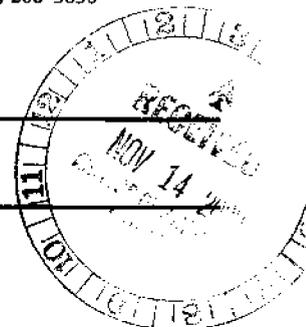


Terry C. Anderson, Director
Legislative Council Staff
(608) 266-1304

Richard Sweet
Assistant Director
(608) 266-2982

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY



[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-117

AN ORDER to renumber DFI-Sec 2.20 (4) (intro.), (a) to (f) and (g) and 5.03 (1) (o); to amend DFI-Sec 2.02 (1), (4) (a) 5. and (9) (c) and (m), 3.03 (3), 4.03 (1) (j), 4.06 (2) (i), 5.03 (1) (h), (3) (c) and (5) and 7.02 (1) (b); and to create DFI-Sec 5.03 (1) (o) and 5.05 (13) and (14), relating to securities registration exemptions and to securities broker-dealer, agent, investment advisor and investment adviser representative licensing procedures, record-keeping requirements and rule of conduct provisions.

Submitted by **DEPARTMENT OF FINANCIAL INSTITUTIONS**

08-09-00 RECEIVED BY LEGISLATIVE COUNCIL.

09-05-00 REPORT SENT TO AGENCY.

RS:DLS;jal;rv

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson
Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 00-117

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 5.03 (5), the comma after the notation "(k)" should be replaced by the word "and" and the comma after the notation "(L)" should be deleted.

b. In the last sentence of the analysis to s. DFI-Sec 7.02 (1) (b), the phrase "subsection in paragraph (8) (c)" should be replaced by the phrase "paragraph in sub. (8)."

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

a. In s. DFI-Sec 2.02 (4) (a) 5., third line, the comma after "(8)" should be deleted.

b. In s. DFI-Sec 4.03. (1) (j), second line, the comma after "customers" should be deleted unless the phrase "to the broker-dealer or its agents relating to securities transactions," in the third line, does not apply to the clause ending in "customers" (in lines 1 and 2).