

CR 94-79

CERTIFICATE

State of Wisconsin)
Office of the)ss.
Commissioner of Securities)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Daniel J. Eastman, Commissioner of the State of Wisconsin Office of the Commissioner of Securities, and custodian of the official records of said agency, do hereby certify that the annexed rules under Ch. 551, Wis. Stats., the Wisconsin Uniform Securities Law, relating to establishing individual investor financial suitability standards for purposes of sec. 551.28(7), Wis. Stats., were duly approved and adopted by this agency on July 18, 1994.

I further certify that this copy has been compared by me with the original on file in this agency 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 Office of the Commissioner of Securities in the City of Madison, this 18th day of July, 1994.

[SEAL]



Daniel J. Eastman
Commissioner of Securities
State of Wisconsin



9-1-94

ORDER OF THE
OFFICE OF THE COMMISSIONER OF SECURITIES
STATE OF WISCONSIN
ADOPTING RULES

To adopt SEC 3.29, Wis. Adm. Code, relating to establishing individual investor financial suitability standards.

Pursuant to sections 551.63(1) and (2) and 551.28(7) Stats., the Office of the Commissioner of Securities adopts rules interpreting s. 551.28(7), Stats., as follows:

SEC 3.29 INVESTOR FINANCIAL SUITABILITY STANDARDS. (1) The investor financial suitability standards established for persons for purposes of s. 551.28(7), Stats., are either of the following:

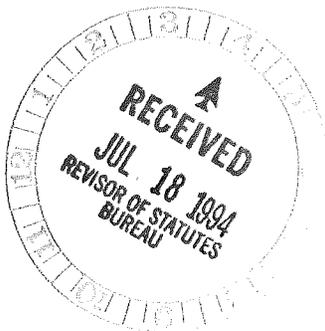
- (a) A person having an annual gross income of at least \$45,000 and a net worth of at least \$45,000 exclusive of the person's principal residence and its furnishings and personal use automobiles: or
- (b) A person having a net worth of at least \$150,000, exclusive of the person's principal residence and its furnishings and personal use automobiles.

(2) In the case of sales to fiduciary accounts, the standards in sub. (1) shall be met by the beneficiary, the fiduciary account, or by the donor or grantor who directly or indirectly supplies the funds to purchase the securities if the donor or grantor is the fiduciary.

Pursuant to the provisions of s. 227.22(2)(intro.), Stats., the rules contained in this Order shall take effect on the first day of the month commencing after the date of their publication in the Wisconsin Administrative Register.

DATED this 18th day of July, 1994.

(SEAL)





DANIEL J. EASTMAN
Commissioner of Securities

REPORT PREPARED BY THE
OFFICE OF THE COMMISSIONER OF SECURITIES
RELATING TO FINAL, ADOPTED FORM OF NEW
RULES OF THE COMMISSIONER OF SECURITIES

(a) Statement Explaining Need for Proposed Rules

This rule-making action will make operative the legislation--in the form of 1993 Wisconsin Act 197 as developed by this Office--recently enacted by the Wisconsin legislature and signed by Governor Tommy G. Thompson amending sec. 551.28(7) of the Wisconsin Uniform Securities Law. The legislation accords the Commissioner of Securities the authority to establish by rule specific individual investor suitability standards, and the proposed rules prescribe specific dollar amount standards based either on an investor's net worth or based on a combination of an investor's annual income and net worth.

Current section 551.28(7), Wis. Stats., operates to preclude the Commissioner of Securities Office from applying the "merit review"/"fairness to investor" standards developed by this Office under secs. 551.28(1)(e) or (f), Wis. Stats., for the registration of securities offered and sold to the public in Wisconsin where the offering provides full disclosure and sales are made only to persons in Wisconsin who meet minimum annual income and/or net worth levels specified in subsections (7)(a), (b) or (c) of the statute. The dollar amounts currently established under the statute--annual income of \$30,000 plus \$30,000 of net worth (exclusive of home, home furnishings and autos) or, alternatively, a \$75,000 net worth--have remained at the same level since 1983 when s. 551.28(7) was created. Those \$30,000 annual income plus \$30,000 net worth or, alternatively, \$75,000 net worth levels, in turn, were taken from securities registration guidelines adopted in the 1970's that imposed minimum investor financial suitability requirements for persons purchasing limited partnership interests which had no resale market. The current investor financial suitability requirements under the North American Securities Administrators Association ("NASAA") Statements of Registration Policy for offerings of interests in limited partnerships involved in real estate activities or in oil and gas exploration, for example, as well as the NASAA Omnibus Guidelines, are an annual income of \$45,000 plus a net worth of \$45,000, or alternatively a \$150,000 net worth.

The new legislation substituted for the specific, but outdated, dollar amounts currently listed in sec. 551.28(7), general rule-making authority for the Commissioner to specify by rule, the dollar levels of purchaser annual income and/or net worth which the Commissioner could adopt that would correspond to NASAA registration guidelines used nationally by NASAA member states, which standards are periodically reviewed and updated to reflect current developments, including the effects of inflation on dollar amounts used in the guidelines. The new legislation in 1993 Wisconsin Act 197, by amending sec. 551.28(7) to provide that the investor financial suitability standards shall be as established by rule of the Commissioner, provides flexibility to enable the Commissioner periodically to act through use of the administrative rule-making process to reflect changes made by NASAA whenever NASAA

revises the dollar amount levels of its investor financial suitability requirements in its registration policies--rather than having to go through a legislative/statutory enactment process. Included in the legislative amendments to the statute is added language requiring that a purchaser must represent in writing that the purchaser meets the prescribed financial suitability standards.

The specified dollar amounts contained in subsection (1) of the rules correspond to the current investor financial suitability standards established under the various NASAA Statements of Policy specified above, and include in subsection (2) a separate provision (also contained in the NASAA Policies) describing how the standards apply in the case of sales to fiduciary accounts. The timetable for completing the rule-making process will coordinate with the five-month delayed effectiveness of the statute as provided in the legislation--which translates into an expected effective date of September 1, 1994.

(b) Explanation of Modifications Made as a Result of Public Comment Letters and Hearing Testimony

- No modifications made.

(c) List of Persons Appearing or Registering at Public Hearing Conducted By Commissioner of Securities Daniel J. Eastman, as Hearing Officer, and Comment Letters Received

Persons appearing or Registering at Public Hearing:

-- Randall E. Schumann, General Counsel of the Office of the Commissioner of Securities, made an appearance on behalf of the agency'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.

Comment Letters Received:

-- Letter dated May 13, 1994, received on May 16, 1994, from Attorney Alan Parness of New York City.

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

-- With respect to the Rules Clearinghouse comment under "Form, Style and Placement in Administrative Code," in s. SEC 3.29(1)(intro.), the abbreviation for the word "section" is changed from "sec." to "s."

-- With respect to the Rules Clearinghouse comment under "Clarity, Grammar, Punctuation and Use of Plain Language," both instances of use of the phrase "an investors'" in the first paragraph of the Analysis is replaced with the phrase "an investor's."

(e) No final regulatory flexibility analysis is included on the basis that the Office of the Wisconsin Commissioner 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 (R10/92)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Amendment No. if Applicable

Subject Rules establishing individual investor financial suitability standards

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: 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 VTAE Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Pursuant to authority in recently-enacted 1993 Wisconsin Act 197 (published April 20, 1994) the attached rules substitute for the specific investor suitability standards previously contained in s. 551.28(7), Stats., (\$30,000 net worth plus \$30,000 annual income, or alternatively a \$75,000 net worth) the suitability standards in current registration guidelines of the North American Securities Administrators Association ("NASAA") which are \$45,000 net worth plus \$45,000 annual income or alternatively \$150,000 net worth).

The change in the dollar amounts of the investor suitability standards for purposes of s. 551.28(7) is not expected to result in any fiscal effect to the agency. The previous levels of agency registration filings utilizing the 30/30/75 standards previously specified in s. 551.28(7)--approximately three filings per month translating to 36 filings per year--generally always were limited partnership offerings that also were the subject of registration filings in other states which imposed the NASAA guidelines with the 45/45/150 standards.

No fiscal effect is expected because while those national limited partnership registrants formerly until now would utilize the lower standards permitted under former s. 551.28(7) in making sales to persons in Wisconsin, because those national issuers will continue to want to be able to sell their future offerings in Wisconsin as well as other states, they will continue to file a registration application in Wisconsin (with the prescribed \$750 registration fee) inasmuch as the new Wisconsin investor suitability standard established by rule will not be higher than the suitability standards they would be subject to in the other states nationally that they would be registering and selling the offering in.

Long-Range Fiscal Implications

None

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

WI Commissioner of/Randall E. Schumann
 Securities Office/
 266-3414

Authorized Signature/Telephone No.


 Daniel J. Eastman 266-3433
 Commissioner of Securities

Date

4-27-94

FISCAL ESTIMATE WORKSHEET

1993 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 DOA-2047(R10/92) CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.	Amendment No.
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Subject
 Rules establishing individual investor financial suitability standards.

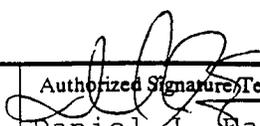
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$ 0	\$ - 0
B. State Costs by Source of Funds		
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S	0	- 0
III. 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.)
 Randall E. Schumann, General Counsel

Authorized Signature/Telephone No. 
 Daniel J. Eastman, Commissioner
 Date: 4-27-94

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

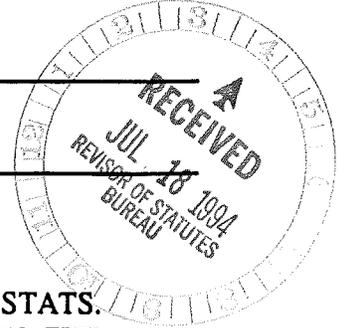
Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, 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 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 94-79

AN ORDER to create SEC 3.29, relating to establishing individual investor financial suitability standards.

Submitted by OFFICE OF THE COMMISSIONER OF SECURITIES.

4-27-94. Received by Legislative Council.

5-25-94. Report sent to Agency.

RS:DLS:kjf;jt

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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Director
(608) 266-1946

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CLEARINGHOUSE RULE 94-79

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 November 1991.]

2. Form, Style and Placement in Administrative Code

In s. SEC 3.29 (1) (intro.), "sec. 551.28 (7)" should be "s. 551.28 (7)".

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

In the first paragraph of the analysis, both occurrences of the phrase "an investors'" should be replaced with the phrase "an investor's".

State of Wisconsin
Office of the Commissioner of Securities

Tommy G. Thompson
Governor

Daniel J. Eastman
Commissioner

Patricia D. Struck
Deputy Commissioner

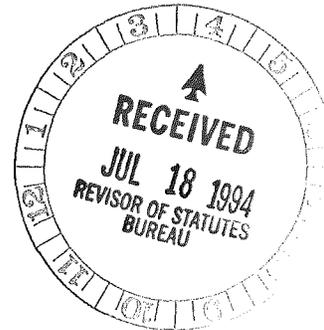


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Legal Services (608) 266-8557
Administration (608) 266-3583

July 18, 1994

Office of the Secretary of State
30 West Mifflin Street
Madison, WI 53703

✓ Revisor of Statutes Bureau
131 West Wilson Street, Suite 800
Madison, WI 53703-3233



Re: Filing of Certified Copies of Final Order
Adopting Rules/Clearinghouse Rule 94-79

Gentlemen and Mesdames:

Pursuant to the requirements of ss. 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. The Final Order Adopting rules was signed and issued by this agency on July 18, 1994.

Also attached is a copy of the Report prepared by this agency relating to the final rules, together with a copy of a fiscal estimate relating to the rules, 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,

A handwritten signature in cursive script, appearing to read "Randall E. Schumann".

Randall E. Schumann
General Counsel

RES:jdc
enclosures
cc: Daniel J. Eastman
Commissioner of Securities