

Chapter DFI-Sec 10

USE OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS

DFI-Sec 10.01 Purpose of chapter.

DFI-Sec 10.02 Use of senior-specific certifications and professional designations.

DFI-Sec 10.01 Purpose of chapter. The rules in this chapter apply to the use of senior certifications and designations.

History: EmR0829; emerg. cr. eff. 9-18-08; CR 08-095; cr. Register March 2009 No. 639, eff. 4-1-09.

DFI-Sec 10.02 Use of senior-specific certifications and professional designations. (1) The use of a senior-specific certification or designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical practice in the securities, commodities, investment, franchise, banking, finance, or insurance business within the meaning of s. 551.412 (4) (m), Stats.

(2) The prohibited use of certifications or professional designations described in sub. (1) include any of the following:

(a) Use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use the certification or designation.

(b) Use of a nonexistent or self-conferred certification or professional designation.

(c) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have.

(d) Use of a certification or professional designation that was obtained from a designating or certifying organization where any of the following criteria are present:

1. The organization is primarily engaged in the business of instruction in sales or marketing or both.

2. The organization does not have reasonable standards or procedures for assuring the competency of its designees or certificants.

3. The organization does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct.

4. The organization does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

(3) There is a rebuttable presumption that a designating or certifying organization is not disqualified under sub. (2) (d) when the organization has been accredited by any of the following:

(a) The American National Standards Institute.

(b) The National Commission for Certifying Agencies.

(c) An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" if the designation or credential issued by the organization does not primarily apply to sales or marketing or both.

(4) In determining whether a combination of words, or an acronym standing for a combination of words, constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered include the following:

(a) Use of one or more words such as "senior," "retirement," "elder," or like words, combined with one or more words such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation.

(b) The manner in which the words in par. (a) are combined.

(5) (a) In this subsection, "financial services regulatory agency" includes an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

(b) For purposes of this chapter, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title does either of the following, or both:

1. Indicates seniority or standing within the organization.

2. Specifies an individual's area of specialization within the organization.

(6) Nothing in this chapter shall limit the division's authority to enforce existing provisions of law.

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