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**PERMANENT ADMINISTRATIVE ORDER**

**FSR 2-2024**

CHAPTER 441

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

FINANCE AND SECURITIES REGULATION

**FILED**

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FILING CAPTION: Use of Certifications or Professional Designations by Person Engaged in Securities Business

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AMEND: 441-135-0020

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RULE SUMMARY: OAR 441-135-0020(1)(e)(E) and 441-135-0020(4)(c) are deleted from the current version of the rule to permit the use of professional designations or certifications unless they falsely indicate or imply that the person has special certification or training, 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, directly or indirectly, or through a publication or writing, or by issuing or disseminating analyses or reports relating to securities.

CHANGES TO RULE:

441-135-0020

Use of Certification or Professional Designation ¶¶

(1) A person may not use a certification or designation that falsely indicates or implies that the person has special certification or training, 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, directly or indirectly, or through a publication or writing, or by issuing or disseminating analyses or reports relating to securities. Prohibited use of a certification or designation includes, but is not limited to, the following activities:¶¶

(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 that falsely states or implies specialized knowledge of the financial needs of a particular segment of the population, or class of investors, that the person using the certification or professional designation does not have. Examples of a particular segment of the population, or class of investors, include but are not limited to senior citizens, elderly or retired persons.¶¶

(e) Use of a certification or professional designation that was obtained from a designating or certifying organization that:¶¶

(A) Is primarily engaged in the business of instruction in sales or marketing, or both;¶¶

- (B) Does not have reasonable standards or procedures for assuring the competency of its designees or certificants;¶
- (C) Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or¶
- (D) Does not have reasonable continuing education requirements for its designees to maintain the designation or certificate; or¶
- ~~(E) Has not been certified or accredited by one of the following organizations, or has been certified or accredited by one of the following organizations but the designation or credential issued from the organization primarily applies to sales or marketing, or both:¶~~
- ~~(i) The American National Standards Institute;¶~~
- ~~(ii) The National Commission for Certifying Agencies; or¶~~
- ~~(iii) An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes".¶~~
- (2) The director recognizes a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of section (1)(e) of this rule when the designation or credential does not primarily apply to sales or marketing or both, and when the organization is accredited by:¶
- (a) The American National Standards Institute;¶
- (b) The National Commission for Certifying Agencies; or¶
- (c) An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes".¶
- (3) The director will consider at least the following factors in determining whether a combination of words, or an acronym standing for a combination of words, constitutes a certification or professional designation that could falsely indicate or imply that a person has special certification or training in advising or servicing a particular segment of the population or class of investor:¶
- (a) The use of one or more words indicating specialized knowledge of the needs of a particular segment of the population or class of investors, including but not limited to "senior," "elder," "retired," or "retirement," 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; and¶
- (b) The manner in which the words in subsection (a) of this section are combined.¶
- (4) This rule does not apply to use of any of the following designations, titles, degrees, or certifications used by a person unless the facts and circumstances associated with the use of the designation, title, degree or certification indicate that the use suggests or implies a greater degree of certification or training than the person possesses or that the designation, title, degree or certification otherwise misleads consumers:¶
- (a) A job title within an organization that is licensed, registered or authorized by a state or federal financial services regulatory agency, when that job title:¶
- (A) Indicates seniority or standing within the organization; or¶
- (B) Specifies an individual's area of specialization within the organization.¶
- (b) A degree, certificate, or designation evidencing completion of an academic program at an institution of higher education that has been accredited by an organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes."¶
- ~~(c) For purpose of subdivision (1)(e)(E) of this rule, a certification or designation recognized as a basis for licensing examination waiver under OAR 441-175-0120(6)(b), when used by a person currently holding such certification or designation.¶~~
- (5) Violation of section (1) of this rule is an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, for the purposes of ORS 59.135(3) and OAR 441-205-0020(1).¶
- (6) The prohibitions in this rule and the remedies available to the director do not limit the director's authority to enforce existing provisions of law and apply existing remedies.

Statutory/Other Authority: ORS 59.285, ORS 59.235

Statutes/Other Implemented: ORS 59.235, 59.135, 59.205