

# NOTICE OF PROPOSED RULEMAKING

## STATEMENT OF NEED AND FISCAL IMPACT

Filing caption: Securities update: Continuing Education

**Public comment deadline:** Click or tap to enter a date.

**Effective Date:** Click or tap to enter a date.

### HEARING

**Date:** Click or tap to enter a date.

**Time:**

**Officer:**

**Location:** Labor & Industries Building  
350 Winter St. NE  
Basement, Conf Rm E  
Salem, OR 97301

This is a hybrid meeting conducted in-person and virtually via Microsoft Teams:

### NEED FOR RULE(S)

*Provide background on why the rule is needed, including a short summary of the rulemaking authority and statutes implemented. Provide a summary of what the rule does. Describe the involvement of the RAC, including the types of stakeholders that were invited to and did participate. Specify if any of the stakeholders were small businesses.*

Since the last update to Oregon's Securities Law there have been changes at the federal level that impact Oregon's laws. Additionally technological and business model changes have prompted a number of policy statements by the North American Securities Administrators Association (NASAA) and new rules promulgated by the SEC and FinRA,( the self-regulatory organization that oversees exchange markets and brokerage firms). Due to the large scope of the proposed rulemaking, the division is proposing to break up the proposed amendments into several smaller rulemakings. This proposed rulemaking is to adopt a continuing education requirement for investment advisor representatives in order to ensure representatives are able to uphold their fiduciary obligations under the Investment Adviser Act of 1940.

Continuing Education: Broker Dealers are required by FinRA to obtain a certain amount of continuing education to ensure competence in the field. NASAA recently adopted a model continuing education rule for investment advisers. Under the model, administration of the rules is divided between 4 parties. A NASAA approved contractor approves the courses; FinRA tracks

the hours through the IARD licensing database; NASAA provides resources; and the state provides the general communication oversight for licensees.

This proposed rulemaking would adopt the NASAA model rule. Under the model, investment advisers have 12 months to accumulate credits. If the proposed rule is adopted, adviser representatives would be required to accumulate credits prior to December 31, 2023. Currently, 12 states have adopted the model or are working toward a January 1, 2023 adoption.

Under 59.285 the director has the authority to adopt rules necessary to carry out the provisions of the Oregon Securities Law if the director finds the action is “necessary or appropriate in the public interest or for the protection of investors.”

This proposed rulemaking will help promote heightened regulatory compliance while also helping investment adviser representatives better serve Oregon investors by remaining knowledgeable of current regulatory requirements and best practices.

The Rule Advisory Committee (RAC) contains representatives from National Association of Investment and Financial Advisers (NAIFA), Oregon Bankers Association (OBA), the investor protection bar – specifically Public Investors Arbitration Bar Association (PIABA), the Securities Section of the Oregon State Bar, investment advisors, Securities Industry and Financial Markets Association (SIFMA), Certified Financial Planners (CFP), advisors using a special designation, small issuers, and industry defense lawyers. Members of the advisory group represent businesses of various sizes include some that would be considered small businesses under ORS 183.310.

#### **DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division’s website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

#### **STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT EQUITY IN THIS STATE:**

*(Who is this going to impact and how might it impact one group of people differently than others?)*

#### **FISCAL AND ECONOMIC IMPACT:**

*Based on information available to DCBS, briefly discuss the cost of compliance for businesses, generally. State whether there are compliance costs for small businesses (independently owned and operated with fewer than 50 employees).*

There is a reporting fee of \$3 per credit hour.

## **COST OF COMPLIANCE FOR SMALL BUSINESSES**

**(1) Identify any state agencies, units of local government, and members of the public (including specific interest groups) likely to be economically affected by the rulemaking.**

**(2)(a) Estimate the number and type of small businesses subject to the rule(s).**

**(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).**

**(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).**

**How were small businesses involved in the development of the rule?**

**Was an administrative rule advisory committee consulted? Yes.**

**Did membership of the RAC represent the interests of persons and communities likely to be affected by the rule?**

*Specify the interested communities (BIPOC, professions, occupations, geographic location, recreational interests, aging/older adults, individuals w/disabilities, LGBTQ+, religion, veterans.*

## **RULE NUMBER AND SUMMARY**

*List each rule number and a short summary of what the rule does.*

ADOPT:

RULE SUMMARY:

**STATUTORY REFERENCE**

STATUTORY/OTHER AUTHORITY: 59.285

STATUTES/OTHER IMPLEMENTED:

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