

# Securities RAC – Special Designations

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Department of Consumer  
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# Agenda

- Introductions (Lauren)
- OAR 441-135-0020; 441-175-0120(6)(b)
- 2020 amendment to OAR 441-135-0020
- What the Rulemaking Does (Lauren)
- Fiscal Impact on Small Businesses (Lauren)
- Racial Equity Impact (Lauren)
- Questions/Comments

# OAR 441-135-0020; 441-175-0120(6)(b)

- In 2020, OAR 441-135-0020 was amended to add OAR 441-135-0020(4)(c) that allows for an examination waiver under OAR 441-175-0120(6)(b).
- The current rules do not include designations related to faith-based investment goals and strategies, including the special designation “Certified Kingdom Advisor (CKA)” as recognized by FINRA.

# Statutory Authority

- ORS 59.285 allow the Division to “make, amend and rescind such rules as are necessary to carry out the provisions of the Oregon Securities Law . . . [if the Division] finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the provisions of the Oregon Securities Law.”
- The rules implement ORS 59.135(3), which makes it “unlawful” for any person to “engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.”
- Specifically, OAR 441-135-0020 prohibits a person from using a certification or designation that falsely indicates or implies that the person has special certification or training or knowledge” with respect to the offer and sale of securities.

# Background: Faith-Based Investing

- As mention in the RAC invitation, the idea of investing according to one's values is not a new concept.
  - More than 100 years ago, Methodist entities “screened” investments in companies that manufactured alcohol, tobacco, promoted gambling, or were involved in the slave trade. Around the same time,
  - Quaker values such as peace, simplicity, integrity and justice, helped steer the Friends Fiduciary Corporation into established guidelines that avoided investing contrary to values and mission.
  - In the late 1960s, Roman Catholics, alongside Protestants and other denominations, spoke out publicly against apartheid in South Africa. After pooling their retirement assets,
  - Religious Sisters filed shareholder resolutions to confront corporations that had not adopted the Sullivan Principles, which detail that all employees should be treated equally, regardless of race.

# Faith-Based Special Designation

- The rulemaking would amend OAR 441-135-0020 to include a new provision recognizing faith-based investment goals and strategies. It would further amend OAR 441-175-0120(6)(b) to include the Certified Kingdom Advisor (CKA)™ designation recognized by FINRA.
- The CKA designation requires candidates to satisfy specific prerequisites by discipline. For example, Accountant: CPA, EA; Attorney: JD; Financial Planner: CFP, ChFC or CPA/PFS designation or have 10 years of full-time financial-planning experience; Insurance Professional: CLU or 10 years of full-time experience practicing with clients in this discipline; Investment Professional: CFP, ChFC, CPA/PFS, CFA, CIMA, AAMS designation or have 10 years of full-time experience practicing with clients in this discipline.
- Additionally, candidates must sign a "Statement of Faith," obtain a letter of reference from a pastor or member of pastoral staff, a signed statement of personal stewardship and two client references. Further requirements include completing a CKA® Educational Program and passing a closed-book final certification exam. The CKA designation requires individuals to satisfy 10-hours of continuing education annually. Finally, the CKA designation can be found using the publicly available FINRA tool that lists 213 financial designations.

# Fiscal Impact on Small Businesses?

- **ORS 183.335(2)(b)(E)** mandates that all fiscal impact statements project any significant economic effect on businesses including “a cost of compliance effect on small businesses affected.”
- **ORS 183.310(10)** defines “small businesses as “independently owned and operated with 50 or fewer employees.”
- Pursuant to ORS 183.335(2)(b)(E), the statement must include: **an estimate of the number** of small businesses subject to the proposed rule; identify the types of businesses subject to the rule; provide a **brief description of the projected reporting, recordkeeping, and other administrative activities** that will be required for small businesses; identify the **equipment costs and labor**, including the **cost of professional services**; and the manner in which the agency involved small businesses in the development of the proposed rule.

# Racial Equity Impact, If Any?

- ORS 183.335(2)(a)(F) mandates that agencies consider how adoption or amendment of the rule will affect **racial equity** in the state.
- “Racial equity” is not statutorily defined and, under Oregon law, agencies are required to give words their ordinary meaning unless they are terms of art.
- The ordinary meaning of “racial equity” is treating people of all races fairly, justly and without bias; as such, the Division needs to consider how a proposed rule or amendment to a rule will affect **the fair, just and unbiased treatment of people of all races**.
- The agency needs to consider what steps, if any, the agency can take to mitigate the adverse or negative impact of the proposed rule or its amendments on people of color.



# Comments/Questions and Next Steps

