

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Licensing and Regulatory Affairs

2. Bureau:

Corporations, Securities, & Commercial Licensing

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Securities

5. Rule numbers or rule set range of numbers:

R 451.1.1 to 451.6.2

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

CSCL proposes to add a continuing education requirement for investment adviser representatives registered under Uniformed Securities Act, MCL 451.2101 et seq. Investment adviser representatives are vital to financial planning for many in Michigan, but unlike other financial professionals, are not subject to a continuing education requirement. The North American Securities Administrators Association (NASAA) has developed model rules for a continuing education program for investment adviser representatives registered under the Michigan Uniform Securities Act. The goal of the model rules is to ensure that investment adviser representatives receive continuing education relevant to their duties and obligations under the act. Furthermore, the continuing education program will be administered through NASAA, with tracking of the continuing education being done by the Financial Industry Regulatory Authority, Inc. (FINRA). FINRA operates the Central Registration Depository (CRD), which is the database that houses registration information for investment adviser representatives in Michigan and other states.

Also, NASAA developed model rules that would require investment advisors to establish, maintain, and enforce written policies and procedures tailored to a registrant's business model. The goal of this rule is to enhance regulatory compliance by minimizing conflicts and other risks to the investing public, which serves to protect consumers of this industry and encourages uniformity with federally registered investment advisers. This model rule will replace rule 451.4.21, the business continuity and succession planning requirement, but will keep substantive requirements of 451.4.21.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Section 411(3) of the Uniform Securities Act, MCL 451.2411(3), requires broker-dealers and investment advisers registered under the act to make and maintain accounts, correspondence, memoranda, papers, books, and other records required by rule.

Section 411(8) of the Uniform Securities Act, MCL 451.2411(8), states that a rule may require individuals registered under the act to participate in a continuing education program approved by the securities and exchange commission and administered by a self-regulatory organization, or in the absence of such a program, a rule or order under this act may require continuing education for an individual registered as an investment adviser representative. No such program currently exists for investment adviser representatives.

Section 605 of the Uniform Securities Act, MCL 451.2605, allows the securities administrator to adopt and amend rules necessary or appropriate to carry out the act.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Sections 201, 202, 202a, 203, 304, 306, 401, 403, 405, 406, 410, 411, 412, 469, 502, 504, and 605 of the Uniform Securities Act, 2008 PA 551, MCL 451.2201, 451.2202, 451.2202a, 451.2203, 451.2304, 451.2306, 451.2401, 451.2403, 451.2405, 451.2406, 451.2410, 451.2411, 451.2412, 451.2469, 451.2502, 451.2504, and 451.2605, and Executive Reorganization Order No. 2012-6, MCL 445.2034.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

The rules are not mandated by any applicable constitutional or statutory provision.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

These rules will not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The securities rules are available on CSCL's website, www.michigan.gov/securities, under the spotlight heading.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

The rules are not listed on the Department's annual regulatory plan as rules to be processed for the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

These rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

These rules do not incorporate recommendations that CSCL received from the public. Before the NASAA model rules were adopted on November 24, 2020, NASAA sought out and received public input on these rules.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The rules were last reviewed in May of 2018. Outside of the tangible issues, such as increased technological costs and employment concerns, the COVID-19 pandemic has impacted the securities industry by requiring firms to adjust their policies and procedures and prepare for their ethical obligation under state and federal law for potential economic impact. This includes the responsibility of protecting an investor's asset from theft, loss, or misappropriation, oversight of staff's investment activities, or the disclosure of fees for their services.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

There are no changes or developments since the implementation of the securities rules that demonstrate there is no continued need for the rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No