

**SC Code of Regulations 13-411. The Use of Senior-Specific Certifications and Professional Designations.**

A. The use of 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 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. The prohibited use of such certifications or professional designations includes, but is not limited to, the following:

- (1) use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;
- (2) use of a nonexistent or self-conferred certification or professional designation;
- (3) use of a certification or professional designation that indicates or implies a level of occupational qualification obtained through education, training, or experience that the person using the certification or professional designation does not have; or
- (4) 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 and/or marketing;
  - (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 or certificants in order to maintain the designation or certificate.

B. There is a rebuttable presumption that a designation or certifying organization is not disqualified solely for purposes of subsection A(4) above when the organization has been accredited by:

- (1) The American National Standards Institute;
- (2) The National Commission for Certifying Agencies;
- (3) an organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales and/or marketing; or
- (4) any other nationally recognized accreditation organization designated by the Securities Commissioner by rule or order.

C. 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 shall include:

- (1) 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; and

(2) The manner in which those words are combined.

D. (1) For purposes of this rule, 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:

(a) indicates seniority or standing within the organization; or

(b) specifies an individual's area of specialization within the organization, unless the facts and circumstances associated with the provision or use of a job title indicate that it improperly suggests or implies certification or training beyond that which the titleholder possesses, or otherwise misleads investors.

(2) For purposes of this subsection, "financial services regulatory agency" includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

E. Nothing in this rule shall limit the Securities Commissioner's authority to enforce existing provisions of law.