

**Vermont Department of Banking, Insurance, Securities and Health Care  
Administration**

**Rule No. SI-2011-03**

**Rule for the Use of Senior-Specific Certifications  
and Professional Designations**

**Effective 9/1/11**

**Section 1. Purpose.**

This Rule sets forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the offer, sale, or purchase of securities or insurance, or in the providing of investment advice regarding securities or insurance.

**Section 2. Authority.**

This Rule is adopted under the authority of 8 V.S.A. § 15 and 9 V.S.A. § 5605. The commissioner finds that this Rule is necessary and appropriate in the public interest and for the protection of senior investors consistent with the purposes intended by the Senior Investor Protection Act, 8 V.S.A. § 24.

**Section 3. Definitions.**

As used in this Rule:

(1) “Commissioner” means the commissioner of the Vermont Department of Banking, Insurance, Securities and Health Care Administration.

(2) “Department” means the Vermont Department of Banking, Insurance, Securities and Health Care Administration.

(3) “Rule” means the administrative rule adopted herein.

**Section 4. Applicability.**

This Rule shall apply to the offer, sale, or purchase of any securities or insurance, or in the providing of investment advice regarding any securities or insurance.

**Section 5. Prohibited Practices.**

(a) The use of a senior-specific certification or designation by any person, directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities or insurance that indicate or imply that the user has special certification or training in advising senior citizens or retirees, made in such a way as to mislead any person in connection with the offer, sale, or purchase of securities or insurance or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities or insurance, shall be a dishonest and unethical practice in the securities, commodities, investment, franchise, banking, finance or insurance business under the meaning of 9 V.S.A. § 5412(d)(13), or an unfair and deceptive act or practice under Title 8, Chapter 129. The prohibited use includes, but is not limited to:

(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 qualifications 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 or marketing;  
or

(B) does not have reasonable standards or procedures for assuring the competency of its designees or persons certified; or

(C) does not have reasonable standards or procedures for monitoring and disciplining its designees or persons certified for improper or unethical conduct;  
or

(D) does not have reasonable continuing education requirements for its designees or persons certified in order to maintain the designation or certificate.

(b) In determining whether the use of a professional certification or designation is prohibited, the commissioner may consider if the certifying or designating organization has been accredited by:

(1) The American National Standards Institute; or

(2) The National Commission for Certifying Agencies; or

(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 or marketing.

(c) In determining whether a combination of words (or an acronym standing for a combination of words) directly or indirectly indicates or implies 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 “senior,” “retirement,” “elder,” or similar word or words, combined with “certified,” “registered,” “chartered,” “adviser,” “specialist,” “consultant,” “planner,” or similar word or words, in the name of the certification or professional designation; and

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

(d) 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:

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

(2) specifies an individual’s area of specialization within the organization.

(e) Nothing in this Rule shall limit the commissioner’s authority to enforce existing provisions of law.

**Section 6. Severability.**

If any provision of this Rule or the application thereof to any person or circumstance is for any reason held to be invalid, the invalidity shall not affect the other provisions or applications of the Rule.