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 File Date: 2-26-15

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Department of Commerce and Insurance
<b>Division:</b>	Securities
<b>Contact Person:</b>	Sarah Branch, Assistant General Counsel for Securities Division
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN 37243
<b>Phone:</b>	615-253-4701
<b>Email:</b>	<a href="mailto:Sarah.Branch@tn.gov">Sarah.Branch@tn.gov</a>

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Don Coleman
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN 37243
<b>Phone:</b>	615-741-6500
<b>Email:</b>	<a href="mailto:Don.Coleman@tn.gov">Don.Coleman@tn.gov</a>

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:	Conference Room 8C, Davy Crockett Tower		
City:	Nashville		
Zip:	37243		
Hearing Date :	April 22, 2015		
Hearing Time:	9:00 AM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

Amendment of 0780-04-03-.02(7) and 0780-04-03-.02(8) to insert new language regarding the use of job titles that imply senior specific certifications or professional designations as paragraph (7) and renumbering the current paragraphs (7) and (8) as paragraphs (8) and (9) respectively.

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0780-04-03	Industry Regulation
Rule Number	Rule Title
0780-04-03-.02	Post Registration

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rule 0780-04-03-.02 Post Registration is amended by adding the following language as a new paragraph number seven (7) and renumbering all remaining paragraphs accordingly:

(7) Use of Senior-Specific Certifications and Professional Designations.

(a) The following shall be deemed "dishonest or unethical business practices" by a broker-dealer, agent of a broker-dealer, an investment adviser, or an investment adviser representative within the meaning of T.C.A. §48-1-112(a)(2)(G) in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of 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:

1. The use by a broker-dealer, agent of a broker-dealer, an investment adviser, or an investment adviser representative of a senior-specific certification or professional designation that is not issued by an accredited certifying or designating organization without fully complying with this Rule, including, without limitation, making the disclosure set forth in subparagraph (7)(b) of this Rule. The required disclosure set forth in subparagraph (7)(b) is triggered by any of the following:

- (i) use of a senior-specific certification or professional designation by a person who has not actually earned, or is otherwise ineligible to use, such certification or designation;
- (ii) use of a nonexistent or self-conferred senior-specific certification or professional designation;
- (iii) use of a senior-specific certification or professional designation that indicates or implies a level of occupational qualifications, obtained through education, training, or experience, that the person using the senior-specific certification or professional designation does not have; or
- (iv) use of a senior-specific certification or professional designation that was obtained from a designating or certifying organization that:
  - (I) is primarily engaged in the business of instruction in sales and/or marketing;
  - (II) does not have reasonable standards or procedures for assuring the competency of its designees or certificants;
  - (III) does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or
  - (IV) does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certification.

(b) The disclosure required by part (7)(a)1. of this Rule must:

- 1. be on the same page as the claimed senior-specific certification or professional designation;
- 2. be in a font size at least equal to the font size used for the senior-specific certification or professional designation; and
- 3. read as follows:

"The senior-specific certification or professional designation claimed is not issued by an accredited designating or certifying organization."

4. be made any time the senior-specific certification or professional designation is claimed in writing, including, but not limited to:
    - (i) business cards; or
    - (ii) advertising in all forms (including internet websites and social media (i.e. Facebook, Myspace, Twitter, LinkedIn, etc.)); and
  5. be made any time the senior-specific certification or professional designation is claimed verbally, including, but not limited to, verbal presentations, whether live or on video, whether formal or informal, and whether to one person or many.
- (c) The following organizations are recognized as acceptable accrediting organizations and any certifying or designating organization that is accredited by them has a rebuttable presumption that the senior-specific certifications and professional designations issued by them do not trigger the disclosure requirement of part (7)(a)1. of this Rule:
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 and/or marketing.
- (d) In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a senior-specific 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.
- (e) For purposes of this Rule, a senior-specific certification or professional designation does not include a job title within an organization that is licensed or registered by a state, federal, or self-regulatory 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; unless
  3. such job title is used in a way that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees.

For purposes of subparagraph (7)(e) of this Rule, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, broker-dealer agents, investment advisers, investment adviser representatives, or investment companies as defined under the Investment Company Act.

- (f) Nothing in this Rule shall limit the commissioner's authority to enforce existing provisions of law.

**Authority:** T.C.A. §§48-1-102, 48-1-109, 48-1-110, 48-1-111, 48-1-112, 48-1-113, 48-1-115, 48-1-116, and 48-1-118.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 2/26/2015

Signature: *[Handwritten Signature]*

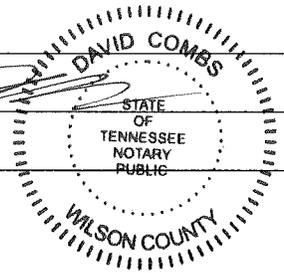
Name of Officer: Sarah Branch

Title of Officer: Assistant General Counsel for Securities

Subscribed and sworn to before me on: 2/26/15

Notary Public Signature: *[Handwritten Signature]*

My commission expires on: 12/6/16



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Filed with the Department of State on: 2-26-15

*Tre Hargett*  
Tre Hargett  
Secretary of State

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