

VIA EMAIL

June 30, 2008

Faith L. Anderson
Department of Financial Institutions
Securities Division
P.O. Box 9033
Olympia WA 98507

Re: Proposed Changes to Holding-out Rule and new Senior Designation Rule

Dear Ms. Anderson:

The Financial Planning Association™ (“FPA®”)¹ welcomes the opportunity to comment on the proposed adoption of the State of Washington’s revised holding out rules (Washington Administrative Code 460-24A-040) as well as its version of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (NASAA Model Rule). As the RAND Report² has made clear, there is significant confusion among individual investors regarding the nature of their relationship with their financial services provider and the differing legal duties owed them by the provider and by the multitude of designations. Our members, many of whom hold the CFP® certification, are committed to providing their clients with full and fair disclosure of all material facts and putting their clients’ best interests first. Therefore, FPA generally supports the adoption of these rules and wholly supports the adoption of the NASAA Model Rule as a proper means of controlling the use of these misleading credentials.

FPA believes that the terms and abbreviations listed in WAC 460-24A-040, while extensive, should also include the term “financial advisor” as a term that would imply a person is holding him or herself as a financial planner or investment counselor. In the experience of our membership, that term is used just as frequently as the listed terms and would appear to have the same potential for customer confusion. By adding this term to the list, we believe that investor confusion will be reduced and investor protection increased. We also want to point out

¹The Financial Planning Association is the largest organization in the United States representing financial planners and affiliated firms, with approximately 28,000 individual members. Most are affiliated with investment adviser firms registered with the Securities and Exchange Commission or state securities administrators, and more than one-half are affiliated with broker-dealers. FPA is incorporated in Washington, D.C., where it maintains an advocacy office, with headquarters in Denver, Colo.

² Angela Hung, et al., RAND Corp., Investor and Industry Perspectives on Investment Advisers and Broker-Dealers (2007) http://www.sec.gov/news/press/2008/2008-1_randiabdreport.pdf.

that while FPA supports the registration of financial planners as registered investment advisers because they meet the definition of an “investment adviser” under the Uniform Securities Act of 2002, we do not consider the terms interchangeable. Investment advice is one of many services³ provided by financial planners to the public, and many of these other activities are not overseen by state securities administrators or the SEC.

With the recent increase in pseudo-credentials focusing on the older investor, it is becoming more important than ever that we protect senior citizens. Individuals use self-serving pseudo-credentials as a means of defrauding senior investors by implying the possession of knowledge they do not have. This deception allows them to more easily sell an unsuitable investment to an unsuspecting customer.

The NASAAA model rule prohibits the misleading use of senior and retiree designations while also providing a means by which a securities administrator may recognize the use of certain legitimate designations conferred by an accredited organization. We strongly support a uniform national approach to this problem and appreciate Washington’s proposed adoption of the model rule as Washington Administrative Code 460-25A-010.

Finally, we would note that the proposed change in WAC 460-24A-040(2)(g) from, “The abbreviation CFP” to “Chartered financial planner (CFP)” should be to “CERTIFIED FINANCIAL PLANNER™ (CFP®)”.

Thank you for extending us the opportunity to comment on these rules. If you have any questions, or if FPA can provide any additional information, please do not hesitate to contact me at (202)449-6342 or david.cohen@fpanet.org

Sincerely,

David A. Cohen
Assistant Director of Government Relations

³ Other non-securities advisory services offered by many financial planners include estate planning, tax planning, cash-flow analysis and budgeting, risk management analysis, and areas of retirement and college planning that do not include advice on securities.