

**NASAA MODEL RULE ON THE USE OF SENIOR-SPECIFIC
CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS**

Adopted _____

Model Rule

1. Pursuant to the dishonest and unethical practices provisions of [USA (1956) (1985) (2002)] and the antifraud provisions of [USA (1956) (1985) (2002)], it is unlawful 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, for any person to use a certification or professional designation 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. The unlawful use of such certification or professional designation includes, but is not limited to, the following:

[OR:]

1. Pursuant to the dishonest and unethical practices provisions of [USA (1956) (1985) (2002)] and the antifraud provisions of [USA (1956) (1985) (2002)], it is unlawful in connection with the offer, sale, or purchase of securities, or the provision of advice about securities, for any person to use a certification or professional designation 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. The unlawful use of such certification or professional designation includes, but is not limited to, the following:
 - (a) use of a certification or designation by a person who has not actually received or earned the certification or professional designation;
 - (b) use of a nonexistent or self-conferred certification or professional designation;
 - (c) 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; and
 - (d) use of a certification or professional designation that was obtained from a designating or certifying organization that:
 - (i) appears to be an educational organization but is primarily a marketing

organization;

- (ii) appears to have standards or procedures for assuring competency of its designees or certificants but does not have meaningful standards or procedures for assuring competency;
 - (iii) appears to have standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct but does not have meaningful standards or procedures for such monitoring and disciplining; or
 - (iv) appears to have continuing education requirements for its designees or certificants in order to maintain the designation or certificate but does not have meaningful continuing education requirements.
2. For purposes of this rule, a designating or certifying organization is presumed to be an educational organization and to possess the standards, procedures, and continuing education requirements referenced in paragraph 1(d) above, when such designating or certifying organization has been accredited by:
- (a) The American National Standards Institute;
 - (b) The National Commission for Certifying Agencies; or
 - (c) any other nationally-recognized accreditation organization designated by the Administrator by rule or order.

In any action brought under this rule, the burden of proof is on the party using a certification or professional designation to show that such use complies with this subsection 2.

3. 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:
- (a) use of one or more words such as “senior,” “retirement,” “elder,” or like words, combined with one or more words such as “certified,” “chartered,” “adviser,” “specialist,” “consultant,” “planner,” or like words, in the name of the certification or professional designation; and
 - (b) the manner in which those words are combined.
4. 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 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 that it otherwise misleads investors.

For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, banks, savings institutions, credit unions, trust companies, insurance companies, or investment companies as defined under the Investment Company Act of 1940.

- 5. This rule shall not apply to a degree or certificate evidencing completion of an academic program at an institution of higher education that has been accredited by an organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" unless the facts and circumstances associated with the provision or use of such degree or certificate indicate that it improperly suggests or implies certification or training beyond that which the degree holder or certificate holder possesses, or that it otherwise misleads investors.
- 6. Nothing in this rule shall limit the Administrator's authority to enforce existing provisions of law.