MONTANA
ADMINISTRATIVE
REGISTER

COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-164.1

Summary

Amendment of ARM 6.10.501(3)(d) pertaining to salespersons and investment adviser registration fees

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No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is 1543.

Comments

Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Tiffany Hoffman, Paralegal, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3499; TDD (406) 444-3246; or e-mail tiffany.hoffman@mt.gov. Comments must be received by Friday, September 5, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Tuesday, August 19, 2025, at 5:00 p.m.

Contact

Tiffany Hoffman
(406) 444-2040
tiffany.hoffman@mt.gov
(406) 444-3246
Fax: (406) 444-3499

General Reasonable Necessity Statement

The Commissioner of Securities and Insurance, Montana State Auditor, James Brown (commissioner) is the statewide elected official responsible for regulating securities in Montana. The 69th Montana Legislature passed House Bill 137 by amending 30-10-209(2)(b)(i), MCA, to eliminate the distinction between the registration fee for in-state and out-of-state salespersons or investment adviser representatives. This change eliminates both the need for and legal basis of the refund process outlined in ARM 6.10.501(3)(d). HB 137 was effective as of its passage and approval on May 12, 2025.

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

6.10.501 REGISTRATION AND EXAMINATION - SECURITIES SALESPERSON, INVESTMENT ADVISER REPRESENTATIVES, BROKER-DEALERS, AND INVESTMENT ADVISERS

(1) To become registered in this state as a securities salesperson or an investment adviser representative, the individual applicant shall pass the Financial Industry Regulatory Authority, Inc. (FINRA) uniform securities agent state law exam or the uniform combined state law examination, or an examination designated by the

commissioner. The applicant must also complete an application form described in (2). A salesperson applying to register with an issuer does not have to take an examination.

(2) Each application for registration in this state must be made on the most current revised uniform application form as adopted by the North American Securities Administrators Association (NASAA), unless the commissioner, by order, designates another form. Broker-dealers shall use FINRA form BD, investment ~~adviser representatives~~ advisers shall use FINRA form ADV, and securities salespersons and investment adviser representatives shall use FINRA form U-4.

(3) Except as provided in (3)(a) and (b), all applications, amendments, reports, notices, related filings, and fees required to be filed with the commissioner shall be filed electronically with and transmitted to the FINRA's investment adviser registration depositor (IARD) for investment advisers and investment adviser representatives or to the FINRA's central registration depository (CRD) for broker-dealers and salespersons:

(a) except as provided in (3)(b), salespersons representing issuers, salespersons of non-FINRA firms and broker-dealers that are not members of the FINRA shall file all applications, amendments, reports, notices, related filings, and fees directly with the commissioner;

(b) in the commissioner's discretion, the commissioner may by order provide for a manner of filing an application to register or an application to terminate registration different from the procedures provided in this rule; and

(c) notwithstanding (3) of this rule, the electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees. Any documents or fees required to be filed with the commissioner that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the commissioner~~; and~~.

~~(d) pursuant to 30-10-209, MCA, those in-state salespersons and investment adviser representatives that file applications on the Form U-4 must submit a Resident Affidavit form with a form W-9 within 30 days of acceptance of the Form U-4 to receive a refund of the difference between out-of-state registration and in-state registration fees.~~

(4) Any individual who has been registered as an agent in any state within two years from the date of filing an application for registration shall not be required to retake the examinations in (1) to be eligible for registration.

(5) Any individual who is not registered as an agent in any state for more than two years but less than five years, who has elected to participate in the FINRA Maintaining Qualifications Program (MQP) pursuant to FINRA Rule 1240(c), and

whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the MQP shall be deemed in compliance with the examination requirements of (1) as long as the individual elects to participate in the NASAA Examination Validity Extension Program (EVEP) within two years of agent registration termination.

(6) Any individual who has not been registered as an agent in any state for more than two years but less than five years, who has elected to participate in the FINRA MQP pursuant to FINRA Rule 1240(c), and whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the FINRA MQP shall be deemed in compliance with the examination requirements of (1).

(7) Successful participation in the FINRA MQP shall not extend the Series 66/Uniform Combined State Law Examination for purposes of investment adviser representative registration.

(8) Each person registered pursuant to 30-10-201, MCA, wishing to terminate registration shall file an application to terminate registration. Each application to terminate registration must be made on the most current revised uniform termination form as adopted by NASAA, unless the commissioner, by order, designates another form. Broker-dealers shall use form BDW, investment advisers shall use form ADV-W, and securities salespersons and investment adviser representatives shall use form U-5.

(9) An individual who terminates their registration as an investment adviser representative may maintain the validity of their Series 65/Uniform Investment Adviser Law Examination (Series 65 Examination) or the investment adviser representative portion of the Series 66/Uniform Combined State Law Examination (Series 66 Examination), as applicable, without being employed by or associated with an investment adviser or federal covered investment adviser for a maximum of five years following the termination of the effectiveness of the investment adviser representative registration if the individual meets all of the following:

(a) the individual previously passed the examination for which they seek to maintain validity under this rule;

(b) the individual was registered as an investment adviser representative for at least one year immediately preceding the termination of the investment adviser representative registration;

(c) the individual was not subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act while registered as an investment adviser representative or at any period after termination of the registration;

(d) the person elects to participate in EVEP under (9) within two years from the effective date of the termination of the investment adviser representative registration;

(e) the individual does not have a deficiency under the investment adviser representative continuing education program at the time the investment adviser representative registration becomes ineffective;

(f) the person completes annually on or before December 31 of each calendar year in which the person participates in the IAR EVEP:

(i) six credits of IAR CE Ethics and Professional Responsibility Content offered by an Authorized Provider, including at least three hours covering the topic of ethics; and

(ii) six credits of IAR CE Products and Practice Content offered by an Authorized Provider;

(g) an individual who elects to participate in EVEP is required to complete credits required by (9)(f) for each calendar year that elapses after the individual's investment adviser representative registration became ineffective regardless of when the individual elects to participate in EVEP; and

(h) an individual who complies with the FINRA MQP under FINRA Rule 1240(c) shall be considered in compliance with (9)(f)(ii).

(10) Each change in the information included in an application for registration or termination must be set forth in an amendment to the application and filed with the commissioner within 30 days after the change occurs.

(11) Upon the written request of an applicant and for good cause shown, the commissioner may waive any of the requirements of this rule.

Authorizing statute(s): 30-10-107, 30-10-209, MCA

Implementing statute(s): 30-10-201, MCA

Small Business Impact

The repeal of ARM 6.10.501(3)(d) would have a de minimis, if any, impact on Montana's small businesses. This action removes the $50 licensure refund mechanism that existed solely for in-state investment advisers. In 2025, only 39 individuals requested the applicable $50 refund, while only 37 and 33 individuals did so in 2024 and 2023, respectively. The $1,950 in cumulative refunds were focused at the individual level and did not concern small businesses. Repealing ARM 6.10.501(3)(d) brings this section of the Administrative Rules of Montana into compliance with the legislative developments required by HB 137. The public may request documentation of the small business impact analysis upon request.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

CSI maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail csi@mt.gov.

Rule Reviewer

George Nemie, Legal Counsel

Approval

Kirsten Madsen, Deputy Securities Commissioner