

NEW RULES IMPACTING SALESPERSON AND INVESTMENT ADVISER REPRESENTATIVE APPLICANTS AND LICENSEES EFFECTIVE 9/30/21

On September 30, 2021, new statutes and rules governing Ohio securities salesperson and investment adviser representative applicants and licensees take effect. Please review the following summaries highlighting some of the key changes. Links to the full text of the rules are provided below. The Division strongly encourages you to familiarize yourself with **all** applicable rule changes promptly.

Revised Code full text: <https://codes.ohio.gov/ohio-revised-code/chapter-1707>

Administrative Code full text: *proposed rules* <https://www.com.ohio.gov/ProposedRules.aspx>
current rules – to be updated <https://codes.ohio.gov/ohio-administrative-code/chapter-1301:6-3>

- I. **Victim Assistance (Revised Code 1707.47 and 1707.471)** – Provides restitution assistance awards for certain victims of securities violations.

- II. **Elder Abuse Reporting (Revised Code 1707.49)** – Requires additional elder abuse reporting by licensees, as a supplement to the current APS requirements; allows for transaction holds in some circumstances.

- III. **Securities Salesperson Applicants (Administrative Code 1301:6-3-16)**
 - Unless the applicant is eligible for grandfathering, requires a passing score, of the following exams, or their successor exams, within the past two years of the date of filing an application with the division:
 - Either the uniform securities agent state law exam (series 63); or the uniform combined state law exam (series 66);
 - The securities industry essentials exam (SIE); and
 - The general securities representative exam (series 7), unless the applicant’s proposed securities activities will be restricted, in which case the applicant shall be required to achieve a passing score on each exam that relates to the applicant’s proposed securities activities:
 - the investment company products and variable contracts representative exam (series 6);
 - the direct participation programs limited representative exam (series 22);
 - the municipal securities representative exam (series 52);
 - the investment banking representative exam (series 79);
 - the private securities offerings representative exam (series 82)
 - Grandfathering: Permitted where the applicant has been licensed by the Division or another US jurisdiction in this capacity within the past two years immediately preceding the application.
 - An applicant will be considered to have passed the SIE exam required by this rule if they currently maintain a non-expired “SIE Credit” issued by FINRA.

IV. IAR Applicants (Administrative Code 1301:6-3-16.1)

- Requires submission of fingerprint results with the application, unless the applicant has current fingerprints on file due to current FINRA licensure.
- Requires a passing score within the past two years on the S65 exam or the S66 + S7 + SIE, unless the applicant is eligible for grandfathering.
- Grandfathering: Permitted where the applicant has been licensed by the Division or another US jurisdiction in this capacity within the past two years immediately preceding the application.
- The professional designation minimum competency options remain unchanged.

V. Salesperson – Deceptive Practices (Administrative Code 1301:6-3-19)

- Prohibits salespersons from placing the financial or other interest of the dealer or salesperson ahead of the interest of the retail customer, recommend the sale or purchase of any security without a reasonable basis to believe that the recommendation is in the best interest of the retail customer based on the customer’s investment profile and the potential risks, rewards, and costs associated with the recommendation, or otherwise fail to comply with the obligations set forth in Regulation Best Interest, as set forth in rule 17 C.F.R. 240.15l-1.

VI. IAR – Prohibited Conduct (Administrative Code 1301:6-3-44)

- Clarifies fiduciary duty owed, by identifying nine types of prohibited conduct relating to: reasonable basis recommendations; conflicts of interest; borrowing money or securities from a client; loaning money to a client; charging a client an unreasonable advisory fee; prohibited use of client passwords; failing to employ reasonable care to avoid misleading clients; and any other act or practice declared to be a breach of fiduciary duty.

You may contact Anne M. Followell, Division Licensing Chief, at anne.followell@com.state.oh.us with any questions regarding this Notice.