

2876.5024 REGULATION OF BUSINESS OF FINANCIAL PLANNING.

Subpart 1. **Definition.** "Business of financial planning" means providing, or offering to provide, financial planning services or financial counseling or advice, on a group or individual basis. Any person who, on advertisements, cards, signs, circulars, letterheads, or in any other manner, indicates that the person is a "financial planner," "financial counselor," "financial adviser," "investment counselor," "estate planner," "investment adviser," "financial consultant," or any other similar designation or title or combination thereof, is considered to be representing himself or herself to be engaged in the business of financial planning.

Subp. 2. **Generally.** The provisions of this part apply to federal covered investment advisers to the extent permitted by the National Securities Markets Improvement Act of 1996, Public Law 104-290.

Subp. 3. **Prohibition.** It is a fraudulent act, practice, and course of business within the meaning of Minnesota Statutes, section 80A.68, for any person registered or required to be registered under the Minnesota Securities Act, Minnesota Statutes, chapter 80A, to represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that the person is engaged in the business of financial planning unless the person provides a disclosure document to the client. A copy of the disclosure document must be delivered or mailed to the client when an account is opened. A licensed broker-dealer is authorized to mail the disclosure document on behalf of its agents. A record of the disclosure must be maintained for a period of three years. The disclosure document must contain the following:

A. the basis of any fees, commissions, or other compensation received by the person in connection with the rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

- (a) ... commissions generated from the products I sell you,
- (b) ... fees, or
- (c) ... a combination of (a) and (b). [Comments]";

B. the identification of companies and/or affiliates that supply products or services offered or sold by the person in the following language:

"I am authorized to offer or sell products and/or services issued by or through (name of firm(s) and/or affiliates):

The products will be traded, distributed, or placed through the (name of clearing/trading firm(s) and/or affiliates)";

C. the licenses held by the person under Minnesota Statutes, chapter 60K, 80A, or 82 in the following language:

"The (insert the term used by agent engaged in the business of financial planning) assigned to your account is licensed in Minnesota as:

- (a) ... an insurance producer,
- (b) ... a broker-dealer agent or broker-dealer,
- (c) ... a real estate broker or salesperson, or
- (d) ... an investment adviser"; and

D. the specific identity of any financial products or services, by category, for example mutual funds, stocks, or limited partnerships, the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

- (a) ... securities, specifically the following: [List],
- (b) ... real property,
- (c) ... insurance,
- (d) ... other: [List]."

Subp. 4. **Exemption.** The disclosure document need not be provided to a client who meets the requirements in Minnesota Statutes, section 80A.46, clause (13).

Statutory Authority: *MS s 45.023; 80A.82*

History: *34 SR 593*

Published Electronically: *November 23, 2009*