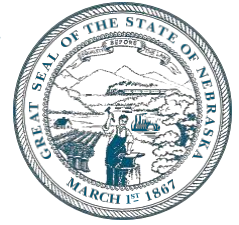


## GUIDANCE DOCUMENT

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.



## **Frequently Asked Questions Regarding Updated Interpretative Opinion No. 17**

Effective February 22, 2018, the Nebraska Department of Banking and Finance (“Department”) issued revised Interpretative Opinion No. 17 regarding the use of certifications and designations on business cards, stationery, and advertising materials by investment adviser representatives and broker-dealer agents. The following are frequently asked questions and answers about the update Interpretative Opinion No. 17.

Questions regarding Interpretative Opinion No. 17 should be addressed to:

Nebraska Department of Banking and Finance  
P.O. Box 95006  
Lincoln, NE 68509-5006  
(402) 471-3445

**Q: *What does this all mean?***

A: The Department will no longer review or issue a list of certifications or designations that may be used by investment adviser representatives and broker-dealers on their business cards, stationery, or advertising materials.

It is the responsibility of the investment adviser or broker-dealer to review and supervise the designations and certifications used by its representatives and agents for compliance with the Securities Act of Nebraska.

**Q: *Is the Department no longer concerned about certifications and designations?***

A: No. The Department remains concerned about the use of certifications and designations that deceptively indicate a financial professional maintains a level of skill or knowledge they do not actually have. The Department is particularly concerned about deceptive practices aimed at pre-retirement investors and seniors.

The Department reviewed its practices in this area and the experience of other states that have enacted similar restrictions on the use of designations and certifications. The Department determined that it would be able to achieve its objectives of investor protection utilizing the framework in Interpretative Opinion No. 17. The Department maintains its authority to pursue actions against false or deceptive practices in the use of certifications and designations.

**Q: *My designation used to be on Interpretative Opinion No. 17. Can I keep using it?***

A: Before March 1, 2019, the certifications and designations that were previously included on Interpretative Opinion No. 17 will be presumed to be in compliance with the requirements of Interpretative Opinion No. 17.

After March 1, 2019, an investment adviser representative and/or broker-dealer agent will need to review the designation for compliance with the updated Interpretative Opinion No. 17.

**Q: *My designation did not use to be on Interpretative Opinion No. 17. Can I use it now?***

A: You may use any designation that is in compliance with Interpretative Opinion No. 17.

**Q: *Can I use any certification or designation that I want?***

A: No. The Department will consider any certification or designation that does not comply with Interpretative Opinion No. 17 to be an “act, practice, or course of business which operates or would operate as a fraud” for purposes of Section 8-1102(2)(b) or a “dishonest or unethical practice” as used in Section 8-1102(2)(d) and Section 8-1103(9)(a)(vii) of the Securities Act of Nebraska Neb. Rev. Stat. §§ 8-1101 to 8-1123 (Reissue 2012; Cum. Supp. 2016; Supp. 2017) (“Act”), and may pursue administrative action.

**Q: *Where can I find a list of issuing organizations that are accredited by the American National Standards Institute, the National Commission for Certifying Agencies, or is an organization that is on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes”?***

A: Information about membership in the American National Standards Institute can be found at <https://eseries.ansi.org/Source/directory/index.cfm>.

Information about membership in the National Commission for Certifying Agencies can be found at <http://www.credentialingexcellence.org/p/cm/ld/fid=121>.

Information about the organizations on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes” can be found at [https://www2.ed.gov/admins/finaid/accred/accreditation\\_pg9.html](https://www2.ed.gov/admins/finaid/accred/accreditation_pg9.html).

**Q: *What if the issuing organization of my certification or designation is not accredited by the American National Standards Institute, the National Commission for Certifying Agencies, or an organization that is on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes”?***

A: Accreditation by these organizations only provides a presumption that the certification or designation is in compliance with Interpretative Opinion No. 17. An investment adviser representative or broker-dealer agent may use a certification or designation whose issuing organization is not accredited if it otherwise complies with Interpretative Opinion No. 17. The

investment adviser or broker-dealer should review the certification or designation, ensure that the agent or representative maintains active status with the certification or designation, and maintain documentation of its determination that the certification or designation is in compliance with Interpretative Opinion No. 17.

**Q: *How do I know if a particular designation is trustworthy? Where can I find out more information about a particular certification or designation?***

A: Investors are encouraged to learn about the designations used by their financial professionals. The requirements for obtaining and maintaining a certification or designation can vary greatly. In some instances, a certification or designation can create the impression that the advice being given is unbiased, independent, or based on special knowledge of the issues facing investors, when the real objective is to sell products offered by the holder of the certification or designation.

Investors may find additional information about certifications and designations through FINRA at <http://www.finra.org/investors/professional-designations>. FINRA maintains a list of designations providing investors with information about (1) the designation and issuing organization, (2) qualification and educational requirements, and (3) verification of status, complaint process, and accreditation.

Additionally, investment adviser representatives that use a designation must disclose to investors on their supplemental brochure (Form ADV Part 2B) an explanation of the minimum qualifications required for the designation to allow clients to understand the value of the designation.

Before making any financial decisions, ask questions, do your homework, and contact the Department with any questions at 402-471-3445.