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Oregon Department of Consumer and Business Services Division of Financial Regulation, Bulletin No. DFR 2025-9

TO: All Oregon state investment advisers and investment adviser representatives

DATE: December 12, 2025

RE: State investment advisers may not charge a fee solely for availability

I. Purpose

This bulletin provides guidance to Oregon state investment advisers (advisers) and their investment adviser representatives (representatives)[1] regarding what constitutes an "unreasonable advisory fee" under Oregon Administrative Rule (OAR) 441-205-0145. Specifically, the Oregon Division of Financial Regulation (division) considers fees charged solely to guarantee an adviser's or their representative's availability, but which are unrelated to any rendered advisory services, to be unreasonable.

II. Authority

- ORS 59.205(2)
- OAR 441-205-0145

III. Background

Oregon Revised Statute (ORS) 59.205(2) gives the director of the Department of Consumer and Business Services (director) authority to issue an order suspending, revoking, or conditioning the license of an adviser or representative if the licensee "has engaged in … unethical practices or conduct in connection with the purchase or sale of any security."

OAR 441-205-0145 notes that advisers and representatives have a fiduciary duty to act primarily for the benefit of their clients. That rule also describes conduct that constitutes "unethical business practices" under 59.205(2). Among the enumerated prohibited practices is "[c]harging a client an unreasonable advisory fee."[2]

[1] Advisers and representatives are defined in ORS 59.015(20) and (8), respectively.
[2] OAR 441-205-0145(j).

IV. Guidance

Every client's unique circumstances necessitates individualized evaluations of how advisers and representatives are compensated for their services. Generally, what is "reasonable" depends on whether the fee is commensurate with the services rendered by the adviser. The division considers fees charged solely to guarantee an adviser or their representative's availability, but which are unrelated to any rendered advisory services, to be unreasonable.[3] Central to demonstrating that a fee is reasonable is appropriate documentation of the tasks undertaken by the adviser in any given service period.

Note that charging a fee for availability is unreasonable regardless of the fee model or label used. In the past, the division and other states have seen fees labeled "retainers," "ongoing financial planning fees," and "subscription fees," which run afoul of the necessity to charge a fee commensurate with the services rendered.[4] However, in all cases, the division will look beyond the label to determine reasonableness. All of the above fee structures may be reasonable if advisory services are provided in every period in which a fee is charged, those services are documented in accordance with existing laws and regulations, and the fee is otherwise reasonable in that it is generally commensurate with the services rendered by the adviser.

This bulletin is effective upon issuance.

T.K. Keen, Administrator
Insurance Commissioner
Division of Financial Regulation

12/12/2025
Date

[3] Likewise, charging a fee without providing any services is a breach of the adviser's or representative's fiduciary duty. *See, e.g.,* In the Matter of Regal Inv. Advisors LLC, et al., Release No. 5865 (U.S. Securities and Exchange Commission, Sept. 16, 2021).
[4] *See, e.g.*, Utah Division of Securities (2009), *Retainer Fee Standards*, at https://securities.utah.gov/wp-content/uploads/2021/09/papers_Retainer_Fees.pdf.