

NOTICE OF REGULATORY POSITION  
February 20, 2008

The Temporary Agent Transfer (“TAT”) process is a protocol developed through the cooperative efforts of state securities administrators and the industry as part of the Central Registration Depository (“CRD”). Kentucky has appointed the CRD as the “director’s designee” for the filing of registration applications for broker-dealers, agents, etc. The TAT protocol allows for more rapid transfers of agents to a new employing broker without having to wait for the Form U5 termination filing from the previous broker. The temporary registration is for a period of thirty (30) days which mirrors the time frame for the submission of a U5 termination by the previous broker. This TAT process is **only available for agents who have had no amendments to their disclosure evidencing customer complaints, investigations, administrative actions, etc. since the agent was registered with the previous broker.** Terminations for cause would also preclude the availability of the TAT process.

KRS 292.440 provides in pertinent part that “It is unlawful for any person to make or cause to be made in any documents filed...under this chapter, any statement which is...false or misleading in any material respect.” The Division of Securities (“Division”) interprets this language to also require that should any material change in the information contained in documents filed with the Division come to the attention of the entity filing the documents, that entity has an affirmative duty to amend the document so that it is not false or misleading.

When a broker-dealer submits a Form U4 (a “document”) to license an agent, section 15C provides the mechanism to trigger an expedited transfer through TAT which is denoted a “Relicense” in CRD language. When the new employing broker submits a Form U4 with the agent’s electronic signature appearing in that section, the broker is stating that the applicant meets the eligibility requirement **emphasized** above. The Division expects the broker to exercise due diligence to ascertain that this is the case. The Division also expects the broker to monitor the disclosure amendments to that agent’s CRD records during the 30-day temporary registration period. Should any subsequent amendments demonstrate that the agent may not be eligible (say, the filing of the U5 indicating that the agent was terminated for cause) for the TAT protocol, the broker who submitted the Form U4 has a duty to amend that document. Failure to do so is subject to enforcement action that will at a minimum involve fines.