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TO: Kentucky Licensed Insurance Agents and Agencies

FROM: Department of Financial Institutions, Securities Division

DATE: January 8, 2026

RE: Guidance on Avoiding Unintentional Investment Adviser Activity

The Kentucky Department of Financial Institutions' ("DFI") Securities Division, in coordination with the Kentucky Department of Insurance ("DOI"), is issuing guidance to help insurance agents avoid engaging in unregistered investment advisory activity under the Securities Act of Kentucky.

Under [KRS 292.310](#), an **investment adviser** is generally defined as any person who, for direct or indirect compensation, engages in the business of advising others regarding the value of securities or the advisability of investing in, purchasing, or selling securities. Accordingly, when an insurance agent advises a consumer to sell, surrender, roll over, or otherwise liquidate a securities product (e.g., 401(k) plans, IRAs, mutual funds, and brokerage accounts) in favor of an insurance or annuity product, and is compensated in connection with that advice, the agent may be acting as an investment adviser. In such cases, the agent may be subject to registration and compliance with the Securities Act of Kentucky.

Unless properly registered, insurance agents should avoid:

- Recommending the liquidation or transfer of securities to purchase insurance or annuity products, especially when profiting from that advice.
- Providing opinions or forecasts about securities or comparative performance between securities and insurance products that could be interpreted as investment advice.

This guidance is not intended to restrict the lawful sale of insurance or annuity products, but to clarify the boundary between insurance sales activity and securities investment advice. Questions may be directed to DFI at KFI@ky.gov or 800-223-2579. We appreciate your continued commitment to ethical practices and consumer protection in the Commonwealth.