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MEMORANDUM

TO: Marni R. Gibson, Commissioner, Department of Financial Institutions, Public Protection Cabinet

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 808 KAR 010:260.

DATE: April 12, 2024

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **JULY 2024** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on July 15, 2024**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures

1 Public Protection Cabinet
2 Kentucky Department of Financial Institutions
3 (Amended)
4 808 KAR 10:260. Examination requirement for individuals advising the public on securities,
5 broker-dealers, and agents.
6 RELATES TO: KRS 292.310, 292.331(3), 292.337, 292.500(3)
7 STATUTORY AUTHORITY: KRS 292.331(3), 292.500(3)
8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.331(3) authorizes the commissioner
9 to require an examination as evidence of knowledge of the securities business as a condition of
10 registration. KRS 292.500(3) authorizes the commissioner to classify securities persons and
11 matters within his jurisdiction and prescribe different requirements for different classes. This
12 administrative regulation requires an individual who advises the public regarding securities to
13 successfully complete a written examination that demonstrates knowledge of the requirements of
14 the securities laws and exempts certain individuals from the examination requirement. This
15 administrative regulation also sets the examination requirements for individuals who participate in
16 the FINRA Maintaining Qualifications Program ("FINRA MQP") pursuant to FINRA Rule
17 1240(c), provided the individual elects to participate in the NASAA Examination Validity
18 Extension Program ("NASAA EVEP").
19 Section 1. Except as provided in Section 2 of this administrative regulation, an individual,
20 including an investment adviser or an investment adviser representative, who advises the public

1 regarding the value of a security or the advisability of investing in, purchasing, or selling a security
2 shall demonstrate competence in the law of securities by providing the commissioner with proof
3 of obtaining a passing score, as determined by the Financial Industry Regulatory Authority
4 (FINRA), on one (1) of the following examinations:

5 (1) The Uniform Investment Advisor Law Examination (Series 65 examination); or

6 (2)

7 (a) The General Securities Representative Examination (Series 7 examination); and

8 (b) The Uniform Combined State Law Examination (Series 66 examination).

9 Section 2. The following individuals shall not be required to take and pass the examination:

10 (1) An individual who registered as an investment adviser or investment adviser representative
11 in a state on or before January 1, 2000 and has been continuously registered since that date,
12 except that the commissioner may require the examinations identified in Section 1 of this
13 administrative regulation for an individual found to have violated a state or federal securities law
14 as a condition of continued registration;

15 (2) An individual who currently holds one (1) of the following professional designations and is
16 in compliance with all continuing education and other requirements of good standing for the
17 designation:

18 (a) Certified Financial Planner (CFP) issued by the Certified Financial Planner Board of
19 Standards, Inc.;

20 (b) Chartered Financial Consultant (ChFC) issued by The American College, Bryn Mawr,
21 Pennsylvania;

22 (c) Personal Financial Specialist (PFS) granted by the American Institute of Certified Public
23 Accountants;

1 (d) Chartered Financial Analyst (CFA) granted by the Association for Investment Management
2 and Research; or

3 (e) Chartered Investment Counselor (CIC) granted by the Investment Counsel Association of
4 America; or

5 (3) An individual who was registered as a broker-dealer agent prior to January 1, 1988, has been
6 continuously registered since that date and has had no reportable disclosures on Form U-4, as
7 incorporated by reference in 808 KAR 10:010.

8 Section 3. An individual not required to take and pass any examination because of holding a
9 designation specified in Section 2(2) of this administrative regulation may be required to take the
10 examination if that individual fails to maintain the designation in good standing.

11 Section 4. A registered investment adviser shall not employ an individual as an investment adviser
12 or as one who represents an investment adviser unless that individual has complied with this
13 administrative regulation.

14 Section 5. To register in Kentucky as a broker-dealer or agent, an individual or a principal, if the
15 applicant is an entity, shall:

16 (1) Pass the appropriate examination, which depending on the proposed business, shall be one
17 (1) of the following FINRA examinations: Series 1, 2, 6, 7, 11, 17, 22, 24, 26, 39, 40, 52, 53, 62,
18 or 79; and

19 (2) Pass the North American Securities Administrators Association ("NASAA") Series 63 or
20 Series 66 examination.

21 Section 6. (1) Except as provided in subsections (2) and (3) of this Section, an [An] individual who
22 has been unregistered for a period of time in excess of two (2) years shall be required to take and

1 pass the examinations specified in Sections 1 and 5 of this administrative regulation unless the
2 commissioner grants a waiver for good cause shown in response to a written request by the
3 investment adviser, broker-dealer, or issuer which the individual will represent.

4 (2) An individual who has been unregistered as an agent in any state for a period of time in excess
5 of two (2) years but less than five (5) years, who has elected to participate in the FINRA
6 Maintaining Qualifications Program ("FINRA MOP") pursuant to FINRA Rule 1240(c), and
7 whose FINRA qualifying examinations remain valid pursuant to participation in the FINRA MOP,
8 shall be deemed in compliance with the examination requirements of Section 5, provided the
9 individual elects to participate in the NASAA Examination Validity Extension Program ("NASAA
10 EVEP") within two years of agent registration termination; and

11 (3) An individual who terminates his or her registration as an investment adviser representative
12 may maintain the validity of his or her Series 65/Uniform Investment Adviser Law Examination,
13 or the investment adviser representative portion of the Series 66/Uniform Combined State Law
14 Examination, as applicable, without being employed by or associated with an investment adviser
15 or a federally covered investment adviser for a maximum of five years following the termination
16 of the individual's investment adviser representative registration, provided the individual:

17 (a) Previously passed the examination for which the individual seeks to maintain validity under
18 this rule;

19 (b) Was registered as an investment adviser representative for at least one year immediately
20 preceding the termination of the investment adviser representative registration;

21 (c) Was not subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange
22 Act while registered as an investment adviser representative or at any period after
23 termination of the registration;

1 (d) Elects to participate in the NASAA EVEP under this paragraph within two years from the
2 effective date of the termination of the investment adviser representative registration;

3 (e) Does not have a deficiency under the investment adviser representative continuing
4 education program at the time the investment adviser representative registration becomes
5 ineffective; and

6 (f) Completes annually, no later than December 31 of each calendar year in which the person
7 participates in the investment adviser representative NASAA EVEP:

8 1. Six (6) Credits of investment adviser representative continuing education Ethics and
9 Professional Responsibility Content offered by an Authorized Provider, including
10 at least three (3) hours covering the topic of ethics; and

11 2. Six (6) Credits of IAR CE Products and Practice Content offered by an Authorized
12 Provider;

13 (4) An individual who elects to participate in NASAA EVEP must complete the credits
14 required by subsection (3)(f) of this rule for each calendar year that elapses after the
15 individual's investment adviser representative registration became ineffective, regardless of
16 when the individual elects to participate in NASAA EVEP.

17 (5) An individual who complies with the FINRA MQP under FINRA Rule 1240(c) shall be
18 deemed in compliance with subsection (3)(f)2. of this rule.

19

808 KAR 10:260

READ AND APPROVED BY

Marni R. Gibson

Marni R. Gibson, Commissioner

Department of Financial Institutions

3/14/2024

DATE

Ray A. Perry

Ray Perry, Secretary

Public Protection Cabinet

4/12/2024

DATE