

FEDERAL MANDATE ANALYSIS COMPARISON

808 KAR 10:260

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- (1) Federal statute or regulation constituting the federal mandate. None**
- (2) State compliance standards. None**
- (3) Minimum or uniform standards contained in the federal mandate. N/a**
- (4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/a**
- (5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/a**

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

808 KAR 10:260

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(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation requires an individual who advises the public regarding securities to successfully complete a written examination that demonstrates knowledge of the requirements of the securities laws and exempts certain individuals from the examination requirement.

(b) The necessity of this administrative regulation:

This administrative regulation provides guidance to individuals who have registered with the agency regarding compliance with examination requirements and maintaining qualifications for compliance purposes and registration.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 292.331(3) authorizes the commissioner to require an examination as evidence of knowledge of the securities business as a condition of registration.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This regulation will require an individual, including an investment adviser or an investment adviser representative, who advises the public regarding the value of a security or the advisability of investing in, purchasing, or selling a security shall demonstrate competence in the law of securities by providing the commissioner with documentation of proficiency to provide securities-related advice for clients and to maintain his or her registration as needed.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This administrative regulation amendment provides guidance for individuals to participate in the FINRA Maintaining Qualifications Program ("FINRA MQP") pursuant to FINRA Rule 1240(c) provided the individual elects to participate in the NASAA Examination Validity Extension

Program ("NASAA EVEP"). The amended language provides guidance as to the requirements to qualify for this extension to required registration practices.

(b) The necessity of the amendment to this administrative regulation:

This amended language allows for proscribed steps an adviser must take in order to maintain the qualifications necessary to renew a registration beyond the existing two-year window.

(c) How the amendment conforms to the content of the authorizing statutes:

The amended language allows for proscribed steps to be taken in order to maintain registration and be in compliance with current statutes.

(d) How the amendment will assist in the effective administration of the statutes:

This amended language confirms with FINRA rule exception requirements for registration and permits the same exception, creating uniformity.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Broker-dealer agents and investment adviser representatives who leave the industry and wish to return without re-taking qualifying examinations for a limited period of time are affected. The number is unknown as it is dependent on those leaving the industry and electing to enter the program; however, all broker-dealer agents and investment adviser representatives would be eligible.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

This amendment provides an optional program for registered individuals to elect to extend their examinations beyond the current two-year window. To comply, individuals elect to enter the program, pay the fee established by the nationwide registration system, and maintain any necessary continuing education.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to the registrant will be a minimal, one-time fee to enter the program, which is paid to the nationwide registration system.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Registered broker-dealer agents and investment adviser representatives will be allowed to maintain a basic level of qualifications for their registrations should they decide or need to leave the industry for a period of time beyond the current two-year limitation, enabling easier re-entry into the industry.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Costs to implement this regulation amendment are minimal, if any, as the processes are already incorporated into the nationwide registration system.

(b) On a continuing basis:

Costs for subsequent years are minimal, if any, as the processes are already incorporated into the nationwide registration system.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current Department resources.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

The Department does not anticipate a need to increase fees or funding to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

Applicants for the program pay a fee for the entry into the program on the nationwide registration system; however, this fee is not charged by the state of Kentucky, and Kentucky receives no increase in revenue from the fee.

(9) TIERING: Is tiering applied? (Explain why or why not)

Tiering was not applied. The regulation did not require tiering to be applied to implement.

FISCAL IMPACT STATEMENT

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- (1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 292.500(3), KRS 292.331(3), KRS 292.310, KRS 292.337

- (2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Department of Financial Institutions, Division of Securities

- (a) Estimate the following for the first year:

Expenditures: None
Revenues: Minimal
Cost Savings: Minimal

- (b) How will expenditures, revenues, or cost savings differ in subsequent years?

The effect on overall revenue for the Department will be minimal and will not have a substantial impact on the Department's budget.

- (3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

- (a) Estimate the following for the first year:

Expenditures: None
Revenues: None
Cost Savings: None

- (b) How will expenditures, revenues, or cost savings differ in subsequent years?

The amended regulation should have no financial impact on state or local government agencies.

(3) Identify additional regulated entities not listed in questions (2) or (3):

The amended regulation is not expected to affect additional regulated entities.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The amended regulation is not expected to impact costs for additional regulated entities.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

The costs will be minimal to the registrant, but any costs that are incurred for maintaining basic continuing education requirements will be determined by the time, manner, and medium in which the registrant participates in the required program components.

(b) Methodology and resources used to determine the fiscal impact:

This fiscal impact was determined by reviewing the requirements to comply with the amended regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

This regulation will not have a major economic impact on the regulated entities or the Department.

(b) The methodology and resources used to reach this conclusion:

The expected costs and revenues were reviewed.