

808 KAR 10:350. Internet advertising.

RELATES TO: KRS 292.320, 292.330

STATUTORY AUTHORITY: KRS 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.330 requires a person to be registered or exempt from registration before transacting business involving a security in Kentucky. This administrative regulation establishes requirements governing the use of the Internet to distribute information on an available product or service by securities industry personnel.

Section 1. Securities industry personnel, including a broker-dealer, investment adviser, broker-dealer agent, or investment adviser representative, shall not be subject to the registration requirements established in KRS 292.330 for using the Internet to distribute information on an available product or service if:

(1) The Internet communication contains a legend clearly stating that the securities industry personnel in question may only transact business in those states where they are registered or otherwise excluded or exempted from state registration requirements;

(2) The Internet communication contains a mechanism which reasonably ensures that any subsequent interaction between prospective customers or clients residing in states where the securities industry personnel are not registered is limited so as to not trigger state registration or licensing requirements or securities registration requirements. State registered securities industry personnel shall not be relieved from their obligation to observe applicable securities registration requirements in any state in which they transact business;

(3) The Internet communication:

(a) Does not involve the actual offering of securities trades, or the rendering of personalized investment advice for compensation over the Internet; and

(b) Is limited to the dissemination of information on a product or service; and

(4) In case of a broker-dealer agent or investment adviser representative:

(a) The agent's or investment adviser representative's affiliation with the broker-dealer or investment adviser is prominently disclosed within the Internet communication;

(b) The broker-dealer or investment adviser with whom the agent or investment adviser representative is associated retains responsibility for reviewing and approving the content of the agent's or investment adviser representative's Internet communication;

(c) The broker-dealer or investment adviser with whom the agent or investment adviser representative is associated authorizes the agent's or representative's Internet distribution of information on the particular product or service and

(d) In disseminating information on the Internet, the agents or investment adviser representatives are acting within the scope of their authority with the broker-dealer or investment adviser.

Section 2. This administrative regulation shall:

(1) Extend to the registration requirements established in KRS 292.330; and

(2) Not excuse compliance with applicable antifraud provisions of KRS 292.320. (24 Ky.R. 2268; Am. 25 Ky.R. 97; eff. 6-25-98; TAm eff. 11-7-2012; Crt eff. 2-27-2020.)