

**PUBLIC PROTECTION CABINET**  
**Department of Financial Institutions**  
**(Amendment)**

**808 KAR 10:260. Examination requirement for individuals advising the public on securities, broker-dealers, and agents.**

RELATES TO: KRS 292.310, 292.331(3), 292.337, 292.500(3)

STATUTORY AUTHORITY: KRS 292.331(3), 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.331(3) authorizes the commissioner to require an examination as evidence of knowledge of the securities business as a condition of registration. KRS 292.500(3) authorizes the commissioner to classify securities persons and matters within his jurisdiction and prescribe different requirements for different classes. 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. This administrative regulation also sets the examination requirements for individuals who 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).

Section 1. Except as provided in Section 2 of this administrative regulation, 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 proof of obtaining a passing score, as determined by the Financial Industry Regulatory Authority (FINRA), on one (1) of the following examinations:

- (1) The Uniform Investment Advisor Law Examination (Series 65 examination); or
- (2)
  - (a) The General Securities Representative Examination (Series 7 examination); and
  - (b) The Uniform Combined State Law Examination (Series 66 examination).

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

- (1) An individual who registered as an investment adviser or investment adviser representative in a state on or before January 1, 2000 and has been continuously registered since that date, except that the commissioner may require the examinations identified in Section 1 of this administrative regulation for an individual found to have violated a state or federal securities law as a condition of continued registration;
- (2) An individual who currently holds one (1) of the following professional designations and is in compliance with all continuing education and other requirements of good standing for the designation:
  - (a) Certified Financial Planner (CFP) issued by the Certified Financial Planner Board of Standards, Inc.;
  - (b) Chartered Financial Consultant (ChFC) issued by The American College, Bryn Mawr, Pennsylvania;
  - (c) Personal Financial Specialist (PFS) granted by the American Institute of Certified Public Accountants;
  - (d) Chartered Financial Analyst (CFA) granted by the Association for Investment Management and Research; or
  - (e) Chartered Investment Counselor (CIC) granted by the Investment Counsel Association of America; or
- (3) An individual who was registered as a broker-dealer agent prior to January 1, 1988, has been continuously registered since that date and has had no reportable disclosures on

Form U-4, as incorporated by reference in 808 KAR 10:010.

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

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

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

- (1) Pass the appropriate examination, which depending on the proposed business, shall be one (1) of the following FINRA examinations: Series 1, 2, 6, 7, 11, 17, 22, 24, 26, 39, 40, 52, 53, 62, or 79; and
- (2) Pass the North American Securities Administrators Association (NASAA) Series 63 or Series 66 examination.

Section 6.

(1) Except as provided in subsections (2) and (3) of this section, an individual who has been unregistered for a period of time in excess of two (2) years shall be required to take and pass the examinations specified in Sections 1 and 5 of this administrative regulation unless the commissioner grants a waiver for good cause shown in response to a written request by the investment adviser, broker-dealer, or issuer which the individual will represent.

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

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

- (a) Previously passed the examination for which the individual seeks to maintain validity under this rule;
- (b) Was registered as an investment adviser representative for at least one (1) year immediately preceding the termination of the investment adviser representative registration;
- (c) Was not subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act while registered as an investment adviser representative or at any period after termination of the registration;
- (d) Elects to participate in the NASAA EVEP under this paragraph within two (2) years from the effective date of the termination of the investment adviser representative registration;
- (e) Does not have a deficiency under the investment adviser representative continuing education program at the time the investment adviser representative registration becomes ineffective; and

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

1. Six (6) credits of investment adviser representative continuing education Ethics and Professional Responsibility Content offered by an authorized provider, including at least three (3) hours covering the topic of ethics; and
2. Six (6) credits of IAR CE Products and Practice Content offered by an authorized provider;

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

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

*MARNI R. GIBSON, Commissioner*  
*RAY PERRY, Secretary*

APPROVED BY AGENCY: April 12, 2024

FILED WITH LRC: April 12, 2024 at 1:15 p.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on June 20, 2024, at 9:00 a.m., at 500 Mero Street, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact persons.

**CONTACT PERSON:** Gary Stephens, Assistant General Counsel and Marni Gibson, Commissioner, 500 Mero Street, 2 SW 19, Frankfort, Kentucky 40601, phone 502-782-9046, fax 502-573-8787, email Gary.Stephens@ky.gov and Marni.Gibson@ky.gov.