

PUBLIC PROTECTION CABINET
Department of Financial Institutions
(Amended at ARRS Committee)

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

RELATES TO: KRS 292.310, 292.330, 292.331(3), 292.337, 292.338, 292.500(3), 15 U.S.C sec. 78c

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 or her 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 agents who participate in the FINRA Maintaining Qualifications Program (FINRA MQP) pursuant to FINRA Rule 1240(c) and investment adviser representatives who participate in the NASAA Examination Validity Extension Program (NASAA EVEP).

Section 1. Except as provided in Section 2 of this administrative regulation, to register in Kentucky as an investment adviser or an investment adviser representative, an individual 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:

- (1) The Uniform Investment Advisor Law Examination (Series 65 examination); or
- (2) Both:
 - (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 examinations referenced in Section 1 of this administrative regulation:

- (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) Certified Investment Management Analyst (CIMA) awarded by the Investment & Wealth Institute;

- (3) An individual who:
 - (a) Was registered as an agent prior to January 1, 1988;
 - (b) Has been continuously registered since that date; and
 - (c) Has had no reportable disclosures on Form U-4, as incorporated by reference in 808 KAR 10:010; or
- (4) An individual who was registered as an investment advisor representative, relying on the professional designation of Chartered Investment Counselor (CIC) prior to January 1, 2025, has been continuously registered since that date and has 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 an investment adviser representative unless that individual has complied with this administrative regulation.

Section 5.

- (1) To register in Kentucky as an agent, the applicant shall:
 - (a) Pass the FINRA Securities Industry Essentials (SIE) and an appropriate examination, which depending on the proposed business, shall be one (1) of the following FINRA examinations: Series 4, 6, 7, 9, 10, 11, 14, 16, 17, 22, 23, 24, 26, 27, 28, 39, 50, 51, 52, 53, 54, 57, 79, 82, 86, 87, or 99; and
 - (b) Pass the North American Securities Administrators Association (NASAA) Series 63 or Series 66 examination.
- (2) To register in Kentucky as a broker-dealer, the applicant shall employ an individual who:
 - (a) Has passed the appropriate examinations listed in Section 5 of this administrative regulation; and
 - (b) Is to be deemed a principal of the broker-dealer.

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, shall be deemed in compliance with the examination requirements of Section 5 of this administrative regulation if:
 - (a) The individual has elected to participate in the FINRA Maintaining Qualifications Program (FINRA MQP) pursuant to FINRA Rule 1240(c);
 - (b) The individual's FINRA qualifying examinations remain valid pursuant to participation in the FINRA MQP; and
 - (c) The individual elects to participate in the NASAA Examination Validity Extension Program (NASAA EVEP) within two (2) years of agent registration termination.
- (3) An individual who terminates his or her registration as an investment adviser representative may, for purposes of compliance with the examination requirements of Section 1 of this administrative regulation, 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 (5) years following the termination of the individual's investment adviser representative registration if the individual:

- (a) Previously passed the examination for which the individual seeks to maintain validity under this administrative regulation;
- (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 15 U.S.C. sec. 78c(a) (39), 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 KRS 292.338 at the time the investment adviser representative registration becomes ineffective; and
- (f)
 - 1. Completes annually, not later than December 31 of each calendar year in which the person participates in the investment adviser representative NASAA EVEP and 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, the continuing education requirements set forth in KRS 292.338(2).
 - 2. An individual who complies with the FINRA MQP under FINRA Rule 1240(c) shall be deemed in compliance with KRS 292.338(2)(b).

FILED WITH LRC: July 9, 2024

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.