



Kansas Register

Kris W. Kobach, Secretary of State

Vol. 34, No. 51

December 17, 2015

Pages 1289-1324

In this issue ...

Page

Legislative interim committee schedule	1290
Kansas Department of Transportation	
Request for bids for transit vehicles.....	1291
Request for applications for FTA program	1291
Department of Administration – Office of Facilities and Property Management	
Notice of requested ancillary technical services	1291
Notice of annual statement of qualifications for architectural, engineering and land surveying firms	1292
Notice of annual statement of qualifications for contractors	1292
Department of Commerce	
Request for comments on the Workforce Innovation Opportunity Act Combined State Plan.....	1292
Pooled Money Investment Board	
Notice of investment rates.....	1292
Heartland Works, Inc.	
Request for proposals for information technology services.....	1293
Department of Administration – Procurement and Contracts	
Notice to bidders for state purchases	1293
Kansas Board of Regents Universities	
Notice to bidders	1293
Department of Health and Environment	
Notice concerning water pollution control permits/applications	1294
Request for comments on proposed air quality permit.....	1296
Syracuse-Hamilton County Airport Commission	
Notice of proposed DBE Program	1295
Kansas Development Finance Authority	
Notice of hearing on proposed revenue bonds.....	1296
Department of Agriculture – Division of Conservation	
Notice of hearing on proposed administrative regulations	1297
State Board of Nursing	
Notice of hearing on proposed administrative regulations	1298
Permanent Administrative Regulations	
Board of Emergency Medical Services	1299
Office of the Securities Commissioner.....	1301
Index to administrative regulations	1322

State of Kansas

Legislature

Interim Committee Schedule

The Legislative Research Department gives notice that the following legislative committees plan to meet on the dates listed below based on current information and subject to change. Requests for accommodation to participate in committee meetings should be made at least two working days in advance of the meeting by contacting Legislative Administrative Services at 785-296-2391 or TTY 711, or email legserv@las.ks.gov.

Date	Room	Time	Committee	Agenda
Dec. 18	KCC, 1500 Arrowhead, 1st Floor Hearing Room	10:00 a.m.	Kansas Electric Transmission Authority	Transmission updates, public comment on the impact of FERC Order 1000, consider- ation of draft annual report.
Dec. 28	548-S	9:00 a.m.	Joint Committee on Robert G. (Bob) Bethell Home and Community Based Services and KanCare Oversight	Agenda not available.
Dec. 29	548-S	9:00 a.m.	Joint Committee on Robert G. (Bob) Bethell Home and Community Based Services and KanCare Oversight	Agenda not available.

Tom Day
Director of Legislative
Administrative Services

Doc. No. 044155

The Kansas Register (USPS 0662-190) is an official publication of the state of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly and a cumulative index is published annually by the Kansas Secretary of State. One-year subscriptions are \$80 (Kansas residents must include applicable state and local sales tax). Single copies, if available, may be purchased for \$2. **Periodicals postage paid at Topeka, Kansas. POSTMASTER:** Send change of address form to Kansas Register, Secretary of State, 1st Floor, Memorial Hall, 120 S.W. 10th Ave., Topeka, KS 66612-1594.

© Kansas Secretary of State 2016. Reproduction of the publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

Hard copy subscription information and current and back issues of the Kansas Register (PDF Format) can be found at the following link: http://www.sos.ks.gov/pubs/pubs_kansas_register.asp

Published by
Kris W. Kobach
Secretary of State
1st Floor, Memorial Hall
120 S.W. 10th Ave.
Topeka, KS 66612-1594
785-296-4564
www.sos.ks.gov



Register Office:
1st Floor, Memorial Hall
785-296-3489
Fax 785-296-8577
kansasregister@sos.ks.gov

State of Kansas

Department of Transportation

Request for Bids for Transit Vehicles

The Kansas Department of Transportation's Office of Public Transportation announces that the Kansas Coordinated Transit District Council (KCTDC) is now accepting courtesy bids for Kansas' transit vehicles.

These courtesy bids will cover four types of 2016/2017 model-year transit vehicles, including ramp minivans, full-size vans, and 20-passenger small transit buses with optional wheelchair lifts. The transit vehicles will be funded by the Federal Transit Administration and the state of Kansas, and must comply with all applicable federal (including FMVSS and ADA requirements) and state laws for passenger vehicles of this type. These vehicles will be used in the KDOT Public Transportation Program to transport the elderly, persons with disabilities, and the general public.

The bid opening is scheduled for 10 a.m. January 11, 2016, in Topeka. Inquiries or requests for a bid package (on CD-ROM) should be made directly to Sarah Krom, Chairperson, Kansas Coordinated Transit District Council, P.O. Box 838, Great Bend, KS 67530, 620-792-1321.

Mike King
Secretary of Transportation

Doc. No. 044150

State of Kansas

Department of Transportation

Request for Applications for FTA Program

The Kansas Department of Transportation's Office of Public Transportation is now accepting applications for operating assistance and proposals for capital purchases in accordance with the Federal Transit Administration (FTA) program U.S.C. 49-5311(f) – Intercity Bus.

The purpose of the U.S.C. 49-5311(f) program is to provide funds to support the intercity bus system and its purpose as a vital link between isolated rural communities and the rest of the nation. The goal of the U.S.C. 49-5311(f) program is to support the connection between nonurbanized areas and the larger regional or national system, meet the intercity travel needs of residents in nonurbanized areas, and support the infrastructure of the intercity bus network.

The application is for reimbursement of operating deficits for state fiscal year 2017 (July 1, 2016 through June 30, 2017) for intercity bus routes in Kansas.

The application is available on the KDOT Public Transportation website at <http://www.ksdot.org/burTransPlan/pubtrans/index.asp>.

Proposals for capital purchases should include all appropriate bid documents, vehicle specifications, associated routes and justification for purchase, a capital investment plan (including information on vehicles that will be replaced), and any additional supporting documents.

Any potential applicants that do not have Internet access can request an application by contacting the KDOT Public Transit office.

All applications and proposals must be received by the Kansas Department of Transportation, Office of Public Transportation, 2nd Floor (Planning), Eisenhower State Office Building, 700 S.W. Harrison, Topeka, 66603-3745, by 3 p.m. Friday, February 12, 2016. Applications received after the deadline will not be accepted.

For more information contact Cory Davis, comprehensive transportation planning manager, at 785-296-7984 or coryd@ksdot.org.

Mike King
Secretary of Transportation

Doc. No. 044149

State of Kansas

**Department of Administration
Office of Facilities and
Procurement Management**

Notice of Requested Ancillary Technical Services

Notice is hereby given of the commencement of negotiations for the 12-month period of January 1, 2016, to December 31, 2016, for the following technical services:

- Land surveying, geotechnical investigation;
- Materials testing services including but not limited to roofing and hazardous materials, concrete, spray-on fire resistive materials and welding;
- Inspection services including but not limited to air and water balancing, roofing, concrete, asphalt and welding; or
- Commissioning of mechanical and electrical systems.

Interested firms are not required to provide all the services described but should indicate on the form the services they can provide.

If your firm is interested in providing any services listed on state of Kansas projects throughout the upcoming year, complete the most current version of Form 050 State of Kansas Professional Qualifications (SOQ) available at <http://admin.ks.gov/offices/ofpm/dcc/f-and-d>. The document title should include the name of the firm submitting the SOQ. The form shall be submitted in PDF format to Barbara Schilling at professional.qualifications@da.ks.gov. The subject line of the email should include the phrase annual qualifications. Any questions should be directed to Barbara Schilling at 785-291-3695 or by email at the address above. Submissions are due by January 15, 2016.

It is the intention of the Office of Facilities and Procurement Management to preapprove a separate group of qualifying firms for each classification listed above. If a firm anticipates being limited to specific-sized projects, by dollar volume or locations in the state, that information also should be supplied with the response.

Mark J. McGivern, Director
Office of Facilities and
Procurement Management

Doc. No. 044158

State of Kansas

Department of Commerce

Request for Comments

The Kansas Department of Commerce and its partners Kansas Rehabilitation Services and Adult Education and Literacy Programs request public comment on its Workforce Innovation Opportunity Act Combined State Plan draft. The plan can be accessed at www.kansas-worksstateboard.org. Public comments may be submitted at WIOAStatePlan@kansascommerce.com through January 15, 2016.

Natalie Meugniot
Workforce Services Program Manager

Doc. No. 044152

should include the name of the firm submitting the SOQ. The form shall be submitted it in PDF format to Barbara Schilling at professional.qualifications@da.ks.gov. The subject line of the email should include the phrase "annual qualifications." Further information may be found at http://admin.ks.gov/offices/ofpm/dcc/bdcm, Part B Chapter 2 - Procurement of Architectural, Engineering and Land Surveying Services. Any questions should be directed to Barbara Schilling at 785-291-3695 or by email at the address above. Submissions are due by January 15, 2016.

Submittals will be on file with the office for use by the State Building Advisory Commission and the secretary of administration.

Mark J. McGivern, Director
Office of Facilities and
Procurement Management

Doc. No. 044156

State of Kansas

Pooled Money Investment Board

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 12-1675(b)(c)(d) and K.S.A. 12-1675a(g).

Table with 2 columns: Term, Rate. Rows include 1-89 days (0.14%), 3 months (0.34%), 6 months (0.55%), 12 months (0.73%), 18 months (0.88%), 2 years (0.98%).

Scott Miller
Director of Investments

Doc. No. 044144

State of Kansas

Department of Administration
Office of Facilities and Property Management

Notice of Annual Statement of
Qualifications for Contractors

Pursuant to K.S.A. 75-37,143, to assist in the procurement of alternative project delivery (construction management at-risk and design-build) construction services, the secretary of administration shall encourage firms engaged in the performance of construction services to submit annually to the secretary and to the State Building Advisory Commission a statement of qualifications and performance data. Each statement shall include data relating to the following:

- (1) The firm's capacity and experience, including experience on similar or related projects; and
(2) the capabilities and other qualifications of the firm's personnel.

If your firm is interested in providing construction management at-risk or design-build services on state of Kansas projects throughout the upcoming year, complete the most current version of Form 050 State of Kansas Professional Qualifications (SOQ) available at http://admin.ks.gov/offices/ofpm/dcc/f-and-d. The PDF document title should include the name of the firm submitting the SOQ. The form shall be submitted it in PDF format to Barbara Schilling at professional.qualifications@da.ks.gov. The subject line of the email should include the phrase "annual qualifications." Further information may be found at http://admin.ks.gov/offices/ofpm/dcc/bdcm, Part B Chapter 7 - Procurement of Alternative Project Delivery Building Construction. Any questions should be directed to Barbara Schilling at 785-291-3695 or by email at the address above. Submissions are due by January 15, 2016.

Submittals will be on file with the office for use by the State Building Advisory Commission and the secretary of administration.

Mark J. McGivern, Director
Office of Facilities and
Procurement Management

Doc. No. 044157

State of Kansas

Department of Administration
Office of Facilities and Property Management

Notice of Annual Statement of Qualifications for
Architectural, Engineering and Land Surveying Firms

Pursuant to K.S.A. 75-1252, as amended, in the procurement of architectural, engineering or land surveying services, the secretary of administration shall encourage firms engaged in the lawful practice of their profession to submit to the secretary and to the State Building Advisory Commission annually a statement of qualifications and performance data.

By statutory definition, "firm" means such individual, firm, partnership, corporation, association, or other legal entity which is permitted by law to practice the profession of architecture, engineering or land surveying by the Kansas Board of Technical Professions.

If your firm is interested in providing architectural, engineering or land surveying services on state of Kansas projects throughout the upcoming year, complete the most current version of Form 050 State of Kansas Professional Qualifications (SOQ) available at http://admin.ks.gov/offices/ofpm/dcc/f-and-d. The PDF document title

(Published in the Kansas Register December 17, 2015.)

Heartland Works, Inc.**Request for Proposals**

Heartland Works, Inc. is accepting proposals for information technology services and solutions for the Heartland Works Inc. Administrative Office and the four Workforce Centers for which it is responsible. The centers are located in Topeka, Lawrence, Manhattan and Junction City. To receive a request for proposal, including all specifications, contact the Heartland Works office, 5020 S.W. 28th St., Suite 100, Topeka, 66614-2348, or 785-234-0500. Proposals must be received no later than 3 p.m. Thursday, January 14, 2016. Heartland Works Inc. welcomes all interested companies to submit a proposal.

David Brennan
Executive Director

Doc. No. 044154

State of Kansas**Department of Administration
Procurement and Contracts****Notice to Bidders**

Sealed bids for items listed will be received by the director of Procurement and Contracts until 2 p.m. on the date indicated. For more information call 785-296-2376:

12/29/2015	EVT0004105	Compact Track Loader, Tuttle Creek
01/04/2016	EVT0004081	Driver's License Production & Issuance System
01/12/2016	EVT0004087	Environmental Services
01/13/2016	EVT0004094	PM2.5 & PB Laboratory Services
01/22/2016	EVT0004092	Premium Billing Services

The above-referenced bid documents can be downloaded at the following website:

<http://admin.ks.gov/offices/procurement-and-contracts/bid-solicitations>

Additional files may be located at the following website (please monitor this website on a regular basis for any changes/addenda):

<http://admin.ks.gov/offices/procurement-and-contracts/additional-files-for-bid-solicitations>

01/07/2016	A-012930	Kansas State School for the Deaf, Emery Hall Window Replacement
------------	----------	---

Information regarding prequalification, projects and bid documents can be obtained by calling 785-296-8899 or online at <http://admin.ks.gov/offices/ofpm/dcc>.

Tracy T. Diel, Director
Procurement and Contracts

Doc. No. 044160

State of Kansas**Board of Regents Universities****Notice to Bidders**

The universities of the Kansas Board of Regents encourage interested vendors to visit the various universities' purchasing offices' websites for a listing of all transactions, including construction projects, for which the universities' purchasing offices, or one of the consortia commonly utilized by the universities, are seeking information, competitive bids or proposals. The referenced construction projects may include project delivery construction procurement act projects pursuant to K.S.A. 76-7,125 et seq.

Emporia State University – Bid postings: www.emporia.edu/busaff/. Additional contact info: phone 620-341-5145, fax: 620-341-5073, email: tshepher@emporia.edu. Mailing address: Emporia State University Purchasing, Campus Box 4021, 1 Kellogg Circle, Emporia, KS 66801-5415.

Fort Hays State University – Bid postings: www.fhsu.edu/purchasing/bids. Additional contact info: phone 785-628-4251, fax: 785-628-4046, email: purchasing@fhsu.edu. Mailing address: Fort Hays State Purchasing Office, 601 Park St., 318 Sheridan Hall, Hays, KS 67601.

Kansas State University – Bid postings: www.k-state.edu/purchasing/rfq. Additional contact info: phone: 785-532-6214, fax: 785-532-5577, email: kspurch@k-state.edu. Mailing address: Division of Financial Services/Purchasing, 21 Anderson Hall, Kansas State University, Manhattan, KS 66506.

Pittsburg State University – Bid postings: www.pittstate.edu/office/purchasing. Additional contact info: phone: 620-235-4169, fax: 620-235-4166, email: purch@pittstate.edu. Mailing address: Pittsburg State University, Purchasing Office, 1701 S. Broadway, Pittsburg, KS 66762-7549.

University of Kansas – Electronic bid postings: <http://www.procurement.ku.edu/>. Paper bid postings and mailing address: KU Purchasing Services, 1246 W. Campus Road, Room 20, Lawrence, KS 66045. Additional contact info: phone: 785-864-5800, fax: 785-864-3454, email: purchasing@ku.edu.

University of Kansas Medical Center – Bid postings: <http://www2.kumc.edu/finance/purchasing/bids.html>. Additional contact info: phone: 913-588-1100, fax: 913-588-1102. Mailing address: University of Kansas Medical Center, Purchasing Department, Mail Stop 2034, 3901 Rainbow Blvd., Kansas City, KS 66160.

Wichita State University – Bid postings: www.wichita.edu/purchasing. Additional contact info: phone: 316-978-3080, fax: 316-978-3528. Mailing address: Wichita State University, Office of Purchasing, 1845 Fairmount Ave., Campus Box 12, Wichita, KS 67260-0012.

Kathy Herrman
Chair of Regents Purchasing Group
Director of Purchasing

Doc. No. 043663

State of Kansas

Department of Health and Environment

Notice Concerning Kansas/Federal Water Pollution Control Permits and Applications

In accordance with Kansas Administrative Regulations 28-16-57 through 63, 28-18-1 through 17, 28-18a-1 through 33, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, various draft water pollution control documents (permits, notices to revoke and reissue, notices to terminate) have been prepared and/or permit applications have been received for discharges to waters of the United States and the state of Kansas for the class of discharges described below.

The proposed actions concerning the draft documents are based on staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the Environmental Protection Agency. The final action will result in a Federal National Pollutant Discharge Elimination System Authorization and/or a Kansas Water Pollution Control permit being issued, subject to certain conditions, revocation and reissuance of the designated permit or termination of the designated permit.

This permit is being reissued for an existing facility with a maximum capacity of 900 head (6.3 animal units) of puppies. There is no change in the permitted animal units from the previous permit.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Kyle Coe, Coe Farms, 1127 286th Road, Soldier, KS 66540; NE/4 of Section 06, T06S, R13E, Jackson County; Kansas River Basin.

Kansas Permit No. A-KSJA-B009

This permit is being reissued for a new facility with a maximum capacity of 289 head (289 animal units) of cattle more than 700 pounds. There is no change in the permitted animal units from the previous permit.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Nelson Schwartz, Schwartz Feeders, 57 E. Road 70, Dighton, KS 67839; SE/4 of Section 18, T18S, R29W, Lane County; Upper Arkansas River Basin.

Kansas Permit No. A-UALE-B006

This permit is being reissued for an existing facility with a maximum capacity of 950 head (950 animal units) of cattle more than 700 pounds. There is no change in the permitted animal units.

Public Notice No. KS-AG-R-15-034/36

Per K.S.A. 65-171d, the following registrations have been received for proposed confined feeding facilities:

Table with 3 columns: Name and Address of Registrant, Legal Description, County. Rows include Morton County Location, Syracuse, KS 67878; Peter & Jeremy Erpelding, Atchison, KS 66002; Rocking Heifer, L.L.C., Middleton, MI 48856.

Public Notice No. KS-AG-15-419/423 Pending Permits for Confined Feeding Facilities

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Gerry Frager, Frager Farms - South Farm, 2779 King Road, Morrowville, KS 66958; NE/4 of Section 14, T01S, R02E, Washington County; Big Blue River Basin.

Kansas Permit No. A-BBWS-C002 Federal Permit No. KS0100439

This permit for a confined animal feeding operation for 2,000 head (2,000 animal units) of cattle weighing more than 700 pounds is being modified. Plans for the cattle buildings have been reapproved. Section E, Schedule of Compliance of the permit has been modified. There are no other changes to the permit. Only the portions of the permit being modified are subject to comment. This facility has an approved Nutrient Management Plan on file with KDHE.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Lester Sealock, Sealock, Inc., 1547 N. Road 20 West, Hoxie, KS 67740; SE/4 of Section 07, T08S, R28W, Sheridan County; Solomon River Basin.

Kansas Permit No. A-SOSD-B004

This permit is being reissued for an existing facility with a maximum capacity of 999 head (999 animal units) of cattle more than 700 pounds. There is no change in the permitted animal units.

Table with 3 columns: Name and Address of Applicant, Legal Description, Receiving Water. Row 1: Roger E. Lambert, 103 N. Pine St., Mahaska, KS 66955; SE/4 of Section 06, T01S, R01E, Washington County; Lower Republican River Basin.

Kansas Permit No. A-LRWS-K001

Public Notice No. KS-Q-15-175/176

The requirements of the draft permits public noticed below are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28 (b-g), and Federal Surface Water Criteria:

Table with 3 columns: Name and Address of Applicant, Receiving Stream, Type of Discharge. Row 1: ICL Performance Products LP, 622 Emerson Road, St. Louis, MO 63141; Kansas River via Private Storm Sewer; Process Wastewater.

Kansas Permit No. I-KS31-PO06 Federal Permit No. KS0001511

Legal Description: NE¼, S29, T12S, R20E, Douglas County, KS

Facility Name: ICL Performance Products

Facility Address: 440 N. 9th St., Lawrence, KS 66044

The proposed action consists of reissuance of an existing Kansas/NPDES Water Pollution Control permit for an existing facility. This is an inorganic chemical manufacturing facility producing phosphoric acid and various sodium phosphates. Another facility, Chemtrade Logistics, is co-located at the site and manufactures phosphorus pentasulfide. Chemtrade discharges cooling tower blowdown and/or stormwater into the ICL system. The proposed permit contains limits for total residual chlorine, total suspended solids, whole effluent toxicity and pH, as well as monitoring for total phosphorus, nitrate + nitrite, total Kjeldahl nitrogen, total nitrogen, total recoverable arsenic and flow.

Name and Address of Applicant	Receiving Stream	Type of Discharge
Monarch Cement Company P.O. Box 1000 Humboldt, KS 66748	Rock Creek via Unnamed Tributary	Pit Dewatering and Stormwater Runoff

Kansas Permit No. I-NE36-PO09 Federal Permit No. KS0100951
 Legal Description: SE¼, S21, & SW¼, S22, T25S, R18E, Allen County, KS
 Facility Name: Iowa Road Shale Borrow Pit

The proposed action consists of issuing a new permit for discharge of wastewater during quarry operations. This is a new facility that mainly excavates shale with no blasting, crushing or washing. The shale is removed via an excavator and loaded onto trucks. Outfalls 001, 002, 003 and 004 consist of stormwater runoff and pit water. Runoff to Outfall 002 will be treated by settling in the mine pit and by a downstream pond before discharge. The proposed permit contains generic water-quality language to protect waters of the state.

Public Notice No. KS-PT-15-021

The requirements of the draft permits public noticed below are pursuant to K.A.R. 26-16-82 through 28-16-98, and U.S. Environmental Protection Agency Pretreatment Regulation 40 CFR 403:

Name and Address of Applicant	Receiving Facility	Type of Discharge
Brent J. Albers 220 N. Main Cheney, KS 67025	Cheney MWWTP	Process Wastewater

Kansas Permit No. P-AR20-OO01 Federal Tracking No. KSP000110
 Facility Name: Albers Finishing & Solutions LLC
 Facility Address: 38628 W. 15th South, Cheney, KS 67025

The proposed action consists of issuing a new pretreatment permit for a new facility. This facility prepares steel parts for paint using a three-stage pretreatment system. Spent wastes are pumped to an on-site 3,000-gallon holding tank for pH adjustment and then discharged manually. The proposed permit contains limits for total toxic organics, cadmium, chromium, copper, lead, nickel, silver, zinc, total cyanide and pH, as well as monitoring of flow.

Persons wishing to comment on the draft documents and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment if they wish to have the comments considered in the decision-making process. Comments should be submitted to the attention of the Livestock Waste Management Section for agricultural-related draft documents or applications, or to the Technical Services Section for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367.

All comments regarding the draft documents or application notices received on or before January 16, 2016, will be considered in the formulation of the final determinations regarding this public notice. Please refer to the appropriate Kansas document number (KS-AG-15-419/423, KS-AG-R-15-034/036, KS-Q-15-175/176, KS-PT-15-021) and name of the applicant/permittee when preparing comments.

After review of any comments received during the public notice period, the secretary of health and environment will issue a determination regarding final agency action on each draft document/application. If response to any draft document/application indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC).

All draft documents/applications and the supporting information including any comments received are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water. These documents are available upon request at the copying cost assessed by KDHE. Application information and components of plans and specifications for all new and expanding swine facilities are available on the Internet at <http://www.kdheks.gov/feedlots>. Division of Environment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays.

Susan Mosier, M.D.
 Secretary of Health
 and Environment

Doc. No. 044151

(Published in the Kansas Register December 17, 2015.)

**Syracuse-Hamilton County
 Airport Commission**

Notice of Proposed DBE Program

The Syracuse-Hamilton County Airport Commission has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation, 49 CFR Part 26, for FAA funding at the Syracuse - Hamilton County Airport, Syracuse, Kansas. The commission anticipates receiving federal financial assistance from the Department of Transportation, and, as a condition of receiving this assistance, the commission will sign an assurance that it will comply with 49 CFR Part 26.

The commission's overall goal for FY 2016-2018 is the following: a three-year goal of 5.88 percent of the federal financial assistance.

The proposed DBE Program is available for public inspection and comment at the office of the airport manager, 1301 N. Main St., Syracuse, 67878. The commission will accept comments on the goals for 45 days from the date of this notice. Comments can be sent to Steve Phillips, airport manager.

Steve Phillips
 Airport Manager

Doc. No. 044153

State of Kansas

Department of Health
and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Worthington Industries Garden City has applied for a Class I operating permit renewal in accordance with the provisions of K.A.R. 28-19-510 et al. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Worthington Industries Garden City, 2814 W. Jones Ave., Garden City, KS 67846, owns and operates a tank manufacturing facility located at the same address.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for public review during normal business hours, 8 a.m. to 5 p.m., at the KDHE, Bureau of Air, 1000 S.W. Jackson, Suite 310, Topeka, and at the KDHE Southwest District Office, 302 W. McArtor Road, Dodge City. To obtain or review the proposed permit and supporting documentation, contact James Stewart, 785-296-1104, at the KDHE central office, or Ethel Evans, 620-356-1075, at the KDHE Southwest District Office. The standard departmental cost will be assessed for any copies requested.

Written comments or questions regarding the proposed permit may be directed to James Stewart, KDHE, Bureau of Air, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received no later than noon January 19, 2016.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to James Stewart, KDHE, Bureau of Air, no later than noon January 19, 2016, in order for the secretary of health and environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Ward Burns, U.S. EPA, Region 7, Air

Permitting and Compliance Branch, 11201 Renner Blvd., Lenexa, KS 66219, 913-551-7960, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Susan Mosier, M.D.
Secretary of Health
and Environment

Doc. No. 044147

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, December 31, in the offices of the Kansas Development Finance Authority, 534 S. Kansas Ave., Suite 800, Topeka, on the proposal for the KDFA to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. The bond will be issued to assist the borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond, which is then typically purchased by a lender bank who then, through the KDFA, loans the bond proceeds to the borrower for the purposes of acquiring the project. The project shall be located as shown:

Project No. 000940 – Maximum Principal Amount: \$340,101.52. Owner/Operator: Isaac Carr. Description: Acquisition of 247 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is being financed by the lender for Isaac Carr and is located at the East Half of Section 36, Township 12 South, Range 7 East, Geary County, Kansas, approximately 4 miles west of Highway 177 to Lower McDowell Road and Schmedemann Road.

The bond, when issued, will be a limited obligation of the KDFA and will not constitute a general obligation or indebtedness of the state of Kansas or any political subdivision thereof, including the KDFA, nor will it be an indebtedness for which the faith and credit and taxing powers of the state of Kansas are pledged. The bond will be payable solely from amounts received from the respective borrower, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the bond when it becomes due.

All individuals who appear at the hearing will be given an opportunity to express their views concerning the proposal to issue the bond to finance the project, and all written comments previously filed with the KDFA at its offices at 534 S. Kansas Ave., Suite 800, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the KDFA.

Tim Shallenburger
President

Doc. No. 044161

State of Kansas

**Department of Agriculture
Division of Conservation****Notice of Hearing on Proposed
Administrative Regulations**

A public hearing will be conducted at 10 a.m. Tuesday, February 23, in the first floor meeting room, Room 124, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, to consider the adoption of proposed regulations.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the secretary of agriculture, 1320 Research Park Drive, Manhattan, 66502, or by email at ronda.hutton@kda.ks.gov. Comments also may be made through the department's website, www.agriculture.ks.gov, under the proposed regulation.

All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and their economic impact follows:

K.A.R. 4-5-4 is proposed by the Kansas Department of Agriculture and provides an improved service to agricultural lime users in Kansas. The Kansas Department of Agriculture (KDA) is in the process of updating the Kansas administrative regulations governing agricultural lime testing protocol to match that of Kansas State University (KSU) Soils Testing Laboratory. The 2015 Legislature approved the KDA-submitted revisions to the Kansas Agricultural Liming Act to allow the KDA the authority to revise regulations to reflect the analysis procedures used by the KSU Soils Testing Laboratory. Prior to fiscal year 2014 the KDA used a different analyses method at the KDA lab in Topeka. The KSU soils lab and the KDA believe the KSU method provides a more accurate analysis for agricultural lime consumers.

K.A.R. 4-5-1 and **4-5-2** are to be revoked as these provisions will be obsolete with the adoption of **K.A.R. 4-5-4**.

Economic Impact Statement: The Kansas Legislature amended the Kansas Agricultural Liming Materials Act (K.S.A. 2-2901 et seq.) in the 2015 session at the request of the KDA in order to have authority to adopt the KSU-recommended testing protocols. This action allows the KDA authority to revise the agricultural liming regulation. The KSU analysis protocol differs from the current state regulation primarily in that the KSU method give the particles falling through the 60 mesh a full count or 100 percent credit as opposed to the current Kansas regulation giving it only a ½ or 50 percent credit. Under the current Kansas regulations, equal (0.5) credit is given to particle sizes between 8 and 60 mesh, and those falling through 60 mesh. When using the current regulation the effective calcium carbonate (ECC) may be falsely low.

The KSU calculation is superior to the current regulation because the finer the lime the quicker it will react with soil acidity. This change is a scientifically based proposal that provides a more accurate value of the ECC.

The KDA realizes savings of approximately \$2 per sample by using the KSU soils laboratory rather than the KDA laboratory. Approximately 70 samples are analyzed annually.

The KSU calculation is more accurate than the state of Kansas' written regulation because the finer the lime the quicker it will react with soil acidity. This is a scientifically backed observation. The current Kansas regulation written goes against this observation, by giving equal (0.5) credit to particle sizes between 8 and 60 mesh and those falling through 60 mesh. The current regulation could potentially fiscally impact agricultural lime producers by giving a falsely lower ECC for their product than the KSU protocols. Such a false result could have a negative financial impact on agricultural lime users because they would purchase more lime than is necessary. During this process, the KDA has communicated with and sought input from various stakeholders, including major industry organizations, to ensure the proposed changes will result in a more accurate, environmentally safe and fiscally responsible agricultural lime regulation in Kansas.

No alternative methods were considered because of scientifically based recommendations of the KSU soils laboratory. There also would be minimal impact to the agency and other governmental agencies. These proposed regulations are not mandated by federal law.

The current regulation opens the door for potential over-application of agricultural lime, based on a variety of factors including soil type. Over-application of agricultural lime in no-till farming applications can cause soil pH to be too high in the top two to three inches of soil. The proposed regulation will reduce that risk by proving more accurate agricultural lime analysis.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Ronda Hutton at 785-564-6715 or fax 785-564-6777. Handicapped parking is located on the west side of the building located at 1320 Research Park Drive, and the west entrance to the building is accessible to individuals with disabilities.

Copies of the regulations and their economic impact statements may be obtained by contacting Ronda Hutton at the contact information above or by accessing the department's website at www.agriculture.ks.gov.

Jackie McClaskey
Secretary of Agriculture

Doc. No. 044146

State of Kansas

Board of Nursing

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 1 p.m. Thursday, March 3, in Room 1051 of the Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed changes in 10 existing rules and regulations relating to continuing nursing education, duplicate license, initial approval for nursing programs, change of name requirements, unprofessional conduct, and reporting misdemeanors. The continuing nursing education proposed changes include clarifying the requirements of a CNE transcript, fractions of hours over 30 minutes to be computed towards contact hours, that an Individual Offering Approval (IOA) is required for college courses, and that refresher courses are only accepted for CNE if it is required for licensure reinstatement. It is proposed that the duplicate license is for the initial license and deletes the ability to waive the fee for a duplicate license if it was stolen. It is also proposed that a licensee must report within 30 days a name change and a conviction of certain misdemeanors. The proposed changes will add the refusal of a board order for a mental or physical examination or an alcohol or drug screen to the unprofessional conduct regulation. The proposed changes also include the removal of the requirement for the rationale for the establishment of a nursing program and the potential effects on other nursing programs.

All interested parties may submit written comments prior to the hearing to the executive administrator of the Board of Nursing, Room 1051, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, or by email to mary.blubaugh@ksbn.state.ks.us. All interested parties will be given a reasonable opportunity to present their views, orally or in writing, concerning the adoption of the proposed regulations during the hearing. Phone comments will be taken by calling 877-278-8686 (access code 408307) at 1 p.m. the day of the hearing. In order to give all persons the opportunity to present their views, it may be necessary to request each participant to limit any oral presentations to five minutes.

A summary of the proposed regulations and the economic impact follows:

K.A.R. 60-2-101. Requirements for initial approval. The proposed changes delete language which requires a rationale for the establishment of the RN and LPN nursing program and the potential effect on other nursing programs in the area. The changes also delete the Kansas administrative process for nursing programs. There is no economic impact for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-3-102. Duplicate of initial license. The proposed language deletes for nursing "the fee may be waived if the license has been stolen" and clarifies that the duplicate license is for the initial license. There is no economic impact for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-3-103. Change of name. The proposed change adds the requirement that a licensee or applicant

must notify the board within 30 days of a name change. There is no economic impact for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-3-110. Unprofessional conduct. The proposed change adds that if a nurse licensee or applicant for a nursing license fails to submit to a mental or physical examination or an alcohol or drug screen when ordered by the board, that failure would be defined as unprofessional conduct. There is no economic impact for the State Board of Nursing, other governmental entities or private business, but the individuals may incur the cost of the examination.

K.A.R. 60-3-113. Reporting of certain misdemeanors or convictions by the licensee. The proposed change would require the licensee to report the convictions within 30 days from the date of the conviction. There is no economic impact for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-7-102. Duplicate of initial license. The proposed language deletes for licensed mental health technicians "the fee may be waived if the license has been stolen" and clarifies that the duplicate license is for the initial license. There is no economic impact for the State Board of Nursing, other governmental entities, private business or individuals.

K.A.R. 60-7-106. Unprofessional conduct. The proposed change adds that if a licensed mental health technician licensee or applicant for a mental health technician license fails to submit to a mental or physical examination or an alcohol or drug screen when ordered by the board, that failure would be defined as unprofessional conduct. There is no economic impact for the State Board of Nursing, other governmental entities or private business, but the individuals may incur the cost of the examination.

K.A.R. 60-9-105. Definitions. The proposed changes clarify that each CNE transcript shall be maintained by the CNE provider and that fractions of hours over 30 minutes to be computed towards a contact hour will be accepted. There is no economic impact for the State Board of Nursing or the individual. There may be a cost to other governmental entities or private business but that amount cannot be determined.

K.A.R. 60-9-106. Continuing nursing education for license renewal. The proposed changes clarify that the CNE transcript designates the number of hours, the licensee name and license number. The changes also clarify that an IOA is required for a college course and when the required 30 hours of CNE need to be completed. The proposed changes also clarify the requirements to be submitted when a licensee is submitting an IOA. The change also clarifies that a refresher course is only accepted for CNE if it is required for licensure reinstatement. There is no economic impact for the State Board of Nursing or the individual. There may be a cost to other governmental entities or private business but that amount cannot be determined.

K.A.R. 60-17-102. Requirements for initial approval. The proposed changes delete language which requires a rationale for the establishment of the APRN nursing program and the potential effect on other nursing programs in the area. The changes also delete the Kansas administrative process for nursing programs. There is no

economic impact for the State Board of Nursing, other governmental entities, private business or individuals.

A copy of each of the proposed regulations and associated economic impact statement may be obtained by accessing the Kansas State Board of Nursing website at www.ksbn.org or by contacting the executive administrator of the State Board of Nursing at the address above or 785-296-5752 prior to the date of hearing.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting the State Board of Nursing.

Mary Blubaugh MSN, RN
Executive Administrator

Doc. No. 044159

State of Kansas

Board of Emergency Medical Services

Permanent Administrative Regulations

Article 5.—CONTINUING EDUCATION

109-5-1. Continuing education. (a) One clock-hour of continuing education credit shall mean at least 50 minutes of instruction for which an individual meets the requirements in subsection (b).

(b) Each individual seeking continuing education credit for a course shall submit either of the following:

- (1) The individual's certificate of attendance; or
- (2) the individual's certificate of completion.

(c) Each acceptable certificate of attendance or certificate of completion shall include the following:

- (1) The name of the provider of the continuing education course;
- (2) the name of the attendant being issued the certificate;
- (3) the title of the course;
- (4) the date or dates on which the course was conducted;
- (5) the location where the course was conducted;
- (6) the amount of approved continuing education credit issued to the individual for attending the course;
- (7) the course identification number issued by the board or by CECBEMS; and
- (8) the name of the person or entity authorized by the provider to issue the certificate.

(d)(1) Acceptable continuing education programs shall include the following:

(A) Programs presented by a sponsoring organization that has single-program provider approval or long-term provider approval, as defined in K.A.R. 109-1-1;

(B) initial courses of instruction provided by a sponsoring organization and approved by the board; and

(C) programs approved or accredited by the CECBEMS, which shall be presumptively accepted by the board unless the board determines that a particular program does not meet board requirements.

(2) Any program not addressed in this subsection may be submitted for approval by the attendant as specified in K.A.R. 109-5-5.

(e) The number of clock-hours received for continuing education credit during one calendar day shall not exceed 12.

(f) Each attendant, training officer, and instructor-coordinator shall keep documentation of completion of approved continuing education for at least three years and shall provide this documentation to the board upon request by the executive director. (Authorized by K.S.A. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6129, K.S.A. 65-6129b, and K.S.A. 2015 Supp. 65-6129c; effective, T-88-122, May 18, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Feb. 3, 1992; amended Aug. 16, 1993; amended Dec. 19, 1994; amended Nov. 1, 1996; amended Nov. 12, 1999; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Aug. 30, 2002; amended Sept. 10, 2010; amended, T-109-2-7-11, Feb. 7, 2011; amended June 3, 2011; amended Jan. 4, 2016.)

109-5-1a. Emergency medical responder (EMR) continuing education. (a) Each applicant for certification renewal as an EMR on or before January 31, 2017 shall have earned at least 16 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter.

(b) After January 31, 2017, each applicant for certification renewal as an EMR shall meet one of the following requirements:

(1) Have earned at least 20 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the EMR specified in the "Kansas continuing education plan," except page one, as adopted by the board in April 2015, which is hereby adopted by reference; or

(2) have met both of the following requirements within the 11 months before the expiration of certification:

(A) Passed the board-approved EMR cognitive assessment; and

(B) either passed a board-approved psychomotor skills assessment or received validation of the applicant's psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016.)

109-5-1b. Emergency medical technician (EMT) continuing education. (a) Each applicant for certification renewal as an EMT on or before January 31, 2017 shall have earned at least 28 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter.

(b) After January 31, 2017, each applicant for certification renewal as an EMT shall meet one of the following requirements:

(1) Have earned at least 40 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the EMT specified in the "Kansas continuing education plan," which is adopted by reference in K.A.R. 109-5-1a; or

(continued)

(2) have met both of the following requirements within the 11 months before the expiration of certification:

(A) Passed the board-approved EMT cognitive assessment; and

(B) either passed a board-approved psychomotor skills assessment or received validation of the applicant's psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016.)

109-5-1c. Emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-intermediate who is also certified as an emergency medical technician-defibrillator, and advanced emergency medical technician; continuing education. (a) Each applicant for certification renewal as an EMT-I shall have completed one of the board-approved transition courses, as specified in K.S.A. 65-6120 and amendments thereto.

(b) Each applicant for certification renewal as an EMT-D shall have completed one of the board-approved transition courses, as specified in K.S.A. 65-6123 and amendments thereto.

(c) Each applicant for certification renewal who is certified both as an EMT-I and as an EMT-D shall have completed one of the board-approved transition courses, as specified in K.S.A. 65-6120 and K.S.A. 65-6123 and amendments thereto.

(d) Each applicant for certification renewal as an AEMT on or before January 31, 2017 shall have earned at least 36 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter.

(e) Each applicant for certification renewal as an AEMT after January 31, 2017 shall meet one of the following requirements:

(1) Have earned at least 50 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the AEMT specified in the "Kansas continued education plan," which is adopted by reference in K.A.R. 109-5-1a; or

(2) have met both of the following requirements within the 11 months before the expiration of certification:

(A) Passed the board-approved AEMT cognitive assessment; and

(B) either passed a board-approved psychomotor skills assessment or received validation of the applicant's psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2015 Supp. 65-6110, 65-6111, 65-6120, and 65-6123; implementing K.S.A. 2015 Supp. 65-6120, 65-6123, and 65-6129; effective March 9, 2012; amended Jan. 4, 2016.)

109-5-1d. Paramedic continuing education. (a) Each applicant for certification renewal as a paramedic shall have earned at least 60 clock-hours of board-approved continuing education during the preceding biennial period.

(b) After January 31, 2017, each applicant for certification renewal as a paramedic shall meet one of the follow-

ing requirements:

(1) Have earned at least 60 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the paramedic as specified in the "Kansas continuing education plan," which is adopted by reference in K.A.R. 109-5-1a; or

(2) have met both of the following requirements within the 11 months before the expiration of certification:

(A) Passed the board-approved paramedic cognitive assessment; and

(B) either passed a board-approved psychomotor skills assessment or received validation of the applicant's psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2015 Supp. 65-6110 and 65-6111 and K.S.A. 65-6119; implementing K.S.A. 2015 Supp. 65-6119 and 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016.)

109-5-2. (Authorized by K.S.A. 65-6111, as amended by L. 2008, ch. 47, sec. 1; implementing K.S.A. 65-6129, as amended by L. 2008, ch. 78, sec. 2, K.S.A. 65-6129b, and K.S.A. 65-6129c; effective, T-88-12, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Nov. 12, 1999; amended May 15, 2009; revoked Jan. 4, 2016.)

Article 8.—EXAMINATIONS

109-8-1. Examination. (a) The cognitive certification examination for emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics shall be the national registry of emergency medical technicians' cognitive examination.

(b) The cognitive certification examination for instructor-coordinator shall be the final cognitive examination developed by the sponsoring organization and approved by the board.

(c) The cognitive certification examinations for training officer I and training officer II approval shall be the final cognitive examinations developed by the sponsoring organization and approved by the board.

(d) Any instructor-coordinator, training officer I, or training officer II who fails the examination may retake it a maximum of three times. An applicant who has failed the examination three times shall not submit a new application for examination until documentation of successful completion of a new initial course has been received and reviewed by the executive director.

(e) Each emergency medical responder or emergency medical technician applicant shall be required to successfully complete the national registry of emergency medical technicians' cognitive examination and shall be required to demonstrate competency in psychomotor skills as evaluated by the vendor contracted by the board, using criteria approved by the board.

(f) Each advanced emergency medical technician or paramedic applicant shall successfully complete the national registry of emergency medical technicians' cognitive examination and psychomotor skills evaluation.

(g) Any emergency medical responder or emergency medical technician applicant who is tested in psychomotor skills and who fails any psychomotor skill station

may retest each failed station a maximum of three times.

(h) Each emergency medical responder, emergency medical technician, advanced emergency medical technician, and paramedic shall successfully complete both the cognitive examination and the psychomotor skills examination no later than 24 months after the last date of that individual's initial course of instruction.

Each individual specified in this subsection shall be required to successfully complete both the cognitive examination and psychomotor skills examination within a 12-month period.

(i) Any examination for certification may be modified by the board as a pilot project to evaluate proposed changes to the psychomotor skills examination. (Authorized by K.S.A. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6111, K.S.A. 2015 Supp. 65-6129, K.S.A. 65-6129b, and K.S.A. 2015 Supp. 65-6129c; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Aug. 27, 1990; amended Feb. 3, 1992; amended Dec. 19, 1994; amended Jan. 5, 1996; amended Nov. 8, 1996; amended May 16, 1997; amended, T-109-2-7-11, Feb. 7, 2011; amended June 3, 2011; amended Jan. 4, 2016.)

Joseph House
Executive Director

Doc. No. 044148

State of Kansas

Office of the Securities Commissioner

Permanent Administrative Regulations

Article 1.—DEFINITIONS OF TERMS

§1-1-1. Definition of terms. As used in the act, these regulations, and the forms, instructions, and orders of the administrator, each of the following terms shall have the meaning specified in this regulation, unless the context indicates otherwise:

(a) "The act" means the Kansas uniform securities act, K.S.A. 17-12a101 et seq., and amendments thereto.

(b) "Administrator" means the securities commissioner of Kansas, appointed pursuant to K.S.A. 75-6301 and amendments thereto, or the commissioner's designee.

(c) "Affiliate" means a person who directly or indirectly controls, is controlled by, or is under common control with another person, or who aids and abets or is aided and abetted by another person.

(d) "AICPA" means the American institute of certified public accountants.

(e) "Branch office" means any location where one or more agents or investment adviser representatives regularly conduct business on behalf of a broker-dealer or investment adviser, or that is held out as such a location, with the exception of the following locations:

(1) Any location that is established solely for customer service or back office-type functions, where no sales activities are conducted, and that is not held out to the public as a branch office;

(2) any location that is the agent's or investment adviser representative's primary residence if all of the following conditions are met:

(A) Only agents or investment adviser representatives

who reside at the location and are members of the same immediate family conduct business at the location;

(B) the location is not held out to the public as an office, and the agent or investment adviser representative does not meet with customers at the location;

(C) neither customer funds nor securities are handled at the location;

(D) the agent or investment adviser representative is assigned to a designated branch office, and the designated branch office is reflected on all business cards, stationery, advertisements, and other communications to the public by the agent or investment adviser representative;

(E) the agent's or investment adviser representative's correspondence and communications with the public are subject to the supervision of the broker-dealer or investment adviser with which the individual is associated;

(F) electronic communications are made through the electronic system of the broker-dealer or investment adviser;

(G) all orders for securities are entered through the designated branch office or an electronic system established by a broker-dealer or investment adviser;

(H) written supervisory procedures pertaining to supervision of activities conducted at residence locations are maintained by the broker-dealer or investment adviser; and

(I) a list of all residence locations is maintained by the broker-dealer or investment adviser;

(3) any location, other than a primary residence, that is used for securities or investment advisory business for less than 30 business days in any one calendar year, if the broker-dealer or investment adviser complies with the provisions of paragraphs (e)(2)(B) through (H). For purposes of this paragraph, a business day shall not include any partial business day if the agent or investment adviser representative spends at least four hours of the business day at the agent's or investment adviser representative's designated branch office during the hours that the office is normally open for business;

(4) any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, that is not held out to the public as an office;

(5) any location that is used primarily to engage in non-securities activities and from which the agents or investment adviser representatives effect no more than 25 securities transactions in any one calendar year, if any advertisement or sales literature identifying the location also sets forth the address and telephone number of the location from which the agents or investment adviser representatives conducting business at the non-branch locations are directly supervised;

(6) the floor of a registered national securities exchange where a broker-dealer conducts a direct access business with public customers; and

(7) a temporary location established in response to the implementation of a business continuity plan.

(f) "Close family relationship" means either a person within the third degree of relationship, by blood or adoption, or a spouse, stepchild, or fiduciary of a person within the third degree of relationship.

(g) "Commission" means any consideration, compen-

(continued)

sation, fee, or other remuneration that is directly or indirectly incurred, paid, or given in exchange for services in connection with the offer, sale, or purchase of securities, the rendering of investment advice, or the solicitation of prospective purchasers or clients.

(h) "Control" means the possession of the power to direct or influence the direction of the management or policies of a person, directly or indirectly, through the ownership of voting securities, by contract, or by other means.

(i) "Controlling person" means a person who has control of any other person. Either of the following persons shall be presumed to be a controlling person:

(1) An officer, director, partner, or trustee or an individual occupying similar status or performing similar functions; or

(2) a person owning 10 percent or more of the outstanding shares of any class or classes of securities.

(j) "CPA" means certified public accountant or a firm of certified public accountants.

(k) "CRD" means the central registration depository jointly administered by FINRA and NASAA.

(l) "Designated security" means any equity security other than the following:

(1) A security registered, or approved for registration upon notice of issuance, on a national securities exchange;

(2) a security authorized, or approved for authorization upon notice of issuance, for listing on the Nasdaq stock market;

(3) a security issued by an investment company registered under the investment company act of 1940;

(4) a security that is a put option or call option issued by the options clearing corporation; or

(5) a security whose issuer has net tangible assets in excess of \$4,000,000 as demonstrated by financial statements dated within the previous 15 months that the broker-dealer has reviewed and has a reasonable basis to believe are true and complete in relation to the date of the transaction with the person, if either of the following conditions is met:

(i) The issuer is other than a foreign private issuer, and the financial statements are the most recent financial statements for the issuer that have been audited and reported on by a CPA in accordance with the provisions of 17 C.F.R. 210.2-02, as adopted by reference in K.A.R. 81-2-1; or

(ii) the issuer is a foreign private issuer, and the financial statements are the most recent financial statements for the issuer that have been filed with the SEC; published electronically in English pursuant to 17 C.F.R. 240.12g3-2(b), as adopted by reference in K.A.R. 81-2-1; or prepared in accordance with generally accepted accounting principles in the country of incorporation, audited in compliance with the requirements of that jurisdiction, and reported on by an accountant duly registered and in good standing in accordance with the regulations of that jurisdiction.

(m) "EFD" means the electronic filing depository administered by NASAA.

(n) "FINRA" means the financial industry regulatory authority, inc., a self-regulatory organization registered with the SEC pursuant to section 15A of the securities

exchange act of 1934, 15 U.S.C. § 78o-3, as adopted by reference in K.A.R. 81-2-1, that was organized upon consolidation with NASD, its predecessor, and the regulatory functions of the New York stock exchange.

(o) "GAAP" means generally accepted accounting principles in the United States.

(p) "General solicitation" means an offer to one or more persons by any of the following means or as a result of contact initiated through any of these means:

(1) Television, radio, or any broadcast medium;

(2) newspaper, magazine, periodical, or any other publication of general circulation;

(3) poster, billboard, internet posting, or other communication posted for the general public;

(4) brochure, flier, handbill, or similar communication, unless the offeror has a substantial preexisting business relationship or close family relationship with each of the offerees;

(5) seminar or group meeting, unless the offeror has a substantial preexisting business relationship or close family relationship with each of the offerees; or

(6) telephone, facsimile, mail, delivery service, social media, or electronic communication, unless the offeror has a substantial preexisting business relationship or close family relationship with each of the offerees.

(q) "IARD" means the investment adviser registration depository jointly administered by the SEC and NASAA and operated by FINRA in conjunction with the CRD system.

(r) "NASAA" means the North American securities administrators association, inc.

(s) "NASD" means the national association of securities dealers, inc., a self-regulatory organization that was registered with the SEC pursuant to section 15A of the securities exchange act of 1934, 15 U.S.C. § 78o-3, as adopted by reference in K.A.R. 81-2-1, until its consolidation with the regulatory functions of the New York stock exchange upon organization of its successor, FINRA.

(t) "Nasdaq" means the Nasdaq stock market, which is comprised of the Nasdaq global select market; the Nasdaq global market, formerly the Nasdaq national market; and the Nasdaq capital market, formerly the Nasdaq smallcap market.

(u) "Officer" means a person charged with managerial responsibility or control over a person, including the president, vice president, secretary, treasurer, partner, and any other controlling person.

(v) "Parent" means an affiliate who controls another person.

(w) "PCAOB" means the public company accounting oversight board.

(x) "Predecessor" means a person, a major portion of whose business, assets, or control has been acquired by another.

(y) "Promoter" means a person who, acting alone or in conjunction with one or more other persons, directly or indirectly founds, organizes, reorganizes, or controls the business, financing, or operations of an issuer.

(z) "Prospectus" means any prospectus defined in section 2(a)(10) of the securities act of 1933, 15 U.S.C. 77b(a)(10), as adopted by reference in K.A.R. 81-2-1. This term shall not include any communication meeting the

requirements of K.S.A. 17-12a202(16), and amendments thereto, or SEC rule 134, 17 C.F.R. 230.134, as adopted by reference in K.A.R. 81-2-1.

(aa) "Registrant" means a person registered under the act.

(bb) "SCOR" means small company offering registration.

(cc) "SEC" means the United States securities and exchange commission.

(dd) "Subsidiary" means an affiliate who is controlled by another person. (Authorized by and implementing K.S.A. 17-12a605(a); effective Jan. 1, 1966; amended, T-85-45, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended May 31, 1996; amended Jan. 19, 2007; amended Jan. 4, 2016.)

Article 2. — FILING, FEES AND FORMS

81-2-1. Forms and adoptions by reference. (a) Forms. Whenever any of these regulations requires the filing of any of the following forms, the filer shall use the form as issued or approved by the administrator:

(1) Uniform forms:

FORM	TITLE
ADV	Uniform application for investment adviser registration
ADV-W	Notice of withdrawal from registration as investment adviser
BD	Uniform application for broker-dealer registration
BDW	Uniform request for broker-dealer withdrawal
D	Notice of exempt offering of securities
NF	Uniform investment company notice filing
U-1	Uniform application to register securities
U-2	Uniform consent to service of process
U-2A	Uniform form of corporate resolution
U-4	Uniform application for securities industry registration or transfer
U-5	Uniform termination notice for securities industry registration
U-7	Disclosure document Model accredited investor exemption uniform notice of transaction

(2) Kansas forms:

FORM	TITLE
IKE	Notice of reliance on the invest Kansas exemption
KSC-1	Sales report or renewal application
KSC-15	Solicitation of interest form for issuers organized or based in Kansas

(3) SEC forms:

FORM	TITLE
1-A	Regulation A offering statement under the securities act of 1933
S-1	Registration statement under the securities act of 1933
X-17A-5	FOCUS report (financial and operational combined uniform single report)

(b) Federal statutes. The following federal statutes, as in effect on May 12, 2015, are hereby adopted by reference:

(1) Sections 2, 3, and 17 of the securities act of 1933, 15 U.S.C. §§ 77b, 77c, and 77q;

(2) sections 9, 10, 13, 15, and 15A of the securities exchange act of 1934, 15 U.S.C. §§ 78i, 78j, 78m, 78o, and 78o-3;

(3) sections 203, 204A, 205, and 215 of the investment advisers act of 1940, 15 U.S.C. §§ 80b-3, 80b-4a, 80b-5, and 80b-15; and

(4) sections 3, 5, 8, and 54 of the investment company act of 1940, 15 U.S.C. §§ 80a-3, 80a-5, 80a-8, and 80a-53.

(c) SEC rules and regulations. The following rules and regulations of the securities and exchange commission, as in effect on May 12, 2015, except as otherwise specified, are hereby adopted by reference:

- (1) 17 C.F.R. 210.2-02;
- (2) rule 134, 17 C.F.R. 230.134;
- (3) rule 147, 17 C.F.R. 230.147;
- (4) regulation A, 17 C.F.R. 230.251 through 230.263, as amended by 80 fed. reg. 21895-21902 (2015) and effective June 19, 2015;
- (5) rules 501, 504, 505, and 506 of regulation D, 17 C.F.R. 230.501, 230.504, 230.505, and 230.506;
- (6) rule 8c-1, 17 C.F.R. 240.8c-1;
- (7) rule 10b-10, 17 C.F.R. 240.10b-10;
- (8) rule 12g3-2(b), 17 C.F.R. 240.12g3-2(b);
- (9) rule 15c2-1, 17 C.F.R. 240.15c2-1;
- (10) rules 15c3-1, 15c3-1a through 15c3-1g, 15c3-3, and 15c3-3a, 17 C.F.R. 240.15c3-1, 240.15c3-1a through 240.15c3-1g, 240.15c3-3, and 240.15c3-3a;
- (11) rules 17a-3, 17a-4, and 17a-5, 17 C.F.R. 240.17a-3, 240.17a-4, and 240.17a-5;
- (12) rule 17a-11, 17 C.F.R. 240.17a-11;
- (13) regulation M, 17 C.F.R. 242.100 through 242.105;
- (14) regulation SHO, 17 C.F.R. 242.200 through 242.204;
- (15) regulation FD, 17 C.F.R. 243.100 through 243.103;
- (16) regulation S-P, 17 C.F.R. 248.1 through 248.18 and 248.30;
- (17) rule 12b-1, 17 C.F.R. 270.12b-1;
- (18) rule 204-4, 17 C.F.R. 275.204-4;
- (19) rule 205-3, 17 C.F.R. 275.205-3; and
- (20) rule 206(4)-1, 17 C.F.R. 275.206(4)-1.

(d) FINRA, NASD, and New York stock exchange rules. The following rules in the "FINRA manual," dated September 2014 and published by the financial industry regulatory authority, inc., are hereby adopted by reference:

- (1) NASD "conduct rules" within the series of rules 2300, 2400, 2500, 2700, 2800, 3000, and 3100;
- (2) FINRA rules within the series of rules 2100, 2200, 2300, 3100, 3200, 3300, 5100, 5200, and 5300; and
- (3) rule 472 of the New York stock exchange, "communications with the public."

(e) Whenever terms within the context of statutes, rules, or documents adopted by reference in these regulations are in conflict with definitions under the act and this regulation, the definition within the statutes, rules, and documents adopted by reference shall apply.

(f) Nothing within these regulations shall be construed to require the SEC, FINRA, or any other regulatory organizations to comply, administer, or enforce the statutes, rules, or policies under their jurisdiction that are adopted by reference under these regulations, or to require the administrator to act on behalf of the SEC, FINRA, or any other regulatory organizations to enforce the statutes,

(continued)

rules, or policies under their jurisdiction. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a608; effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended, E-77-40, Aug. 12, 1976; amended Feb. 15, 1977; amended, T-86-38, Dec. 11, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-88-29, Aug. 19, 1987; amended May 1, 1988; amended March 25, 1991; amended Oct. 7, 1991; amended April 17, 1995; amended May 31, 1996; amended Dec. 19, 1997; amended Aug. 18, 2006; amended Aug. 12, 2011; amended Jan. 4, 2016.)

Article 3.—LICENSING; BROKER-DEALERS AND AGENTS

81-3-1. Registration procedures for broker-dealers and agents. (a) General provisions. Each applicant shall be at least 18 years of age. If the applicant is not an individual, then the directors, officers, managing partners, or managing members of the applicant shall be at least 18 years of age.

(b) Registration requirements for broker-dealers.

(1) Initial application.

(A) CRD filing requirements. Each applicant for initial registration as a broker-dealer shall complete form BD in accordance with the form instructions and shall file the form with the CRD, unless the applicant is not required to file with the CRD for FINRA membership or SEC registration. Each application filed with the CRD shall include the following:

(i) The registration fee specified in K.A.R. 81-3-2(a);

(ii) any reasonable fee charged by FINRA for filing through the CRD system; and

(iii) a current list of the addresses of all branch offices and the names of all branch supervisors.

(B) Direct filing requirements. Each applicant for initial registration as a broker-dealer that is required to file with the CRD pursuant to paragraph (b)(1)(A) shall file either of the following, as applicable, directly with the administrator:

(i) The annual report for the applicant's last fiscal year pursuant to SEC rule 17a-5(d), 17 C.F.R. 240.17a-5(d), as adopted by reference in K.A.R. 81-2-1, unless the applicant was not required to file an annual report with FINRA and the SEC, and part II of the applicant's most recent FOCUS report on form X-17A-5 that includes a statement of financial condition dated within 90 days of filing for registration, unless the applicant was not required to file a FOCUS report with FINRA and the SEC; or

(ii) a statement of financial condition with notes to the statement presented in conformity with GAAP dated within 90 days of filing for registration, including disclosure of the applicant's net capital or a supplemental schedule of net capital pursuant to K.A.R. 81-3-7(d).

(C) Filing requirements for an applicant that is not required to file with CRD for FINRA membership or SEC registration. An applicant that is not required to file with CRD shall file the following directly with the administrator:

(i) A printed form BD, completed in accordance with the form instructions;

(ii) the registration fee specified in K.A.R. 81-3-2(a); and

(iii) the statement of financial condition specified in

paragraph (b)(1)(B)(ii).

(2) Effective date of registration. Each registration shall become effective the 45th day after a completed application is filed unless approved earlier by the administrator. If the administrator or the administrator's staff has given written notice of deficiencies in the application, the application shall not be considered complete until an amendment is filed to resolve the deficiencies.

(3) Expiration and annual renewal of registration. Each broker-dealer registration shall expire on December 31, and each application for renewal of registration shall be filed as follows:

(i) If the initial application for registration was filed with the CRD, the renewal application shall be filed with the CRD not later than the deadline established by the CRD. Each application for renewal of registration shall include the fee specified in K.A.R. 81-3-2(a) and any reasonable fee charged by FINRA for filing through the CRD system. Each applicant for renewal shall also update information in the CRD system as necessary, on or before December 31, including the addresses of all branch offices and the names of all branch supervisors.

(ii) If the initial application for registration was filed directly with the administrator pursuant to paragraph (b)(1)(C), the renewal application shall be filed directly with the administrator and shall include the fee specified in K.A.R. 81-3-2(a). Each application for renewal filed directly with the administrator shall include an updated form BD with amendments for material changes, if any, as specified in paragraph (b)(4).

(4) Updates and amendments. Each registered broker-dealer shall promptly file an amendment to form BD, in accordance with the instructions to form BD, whenever there is any material change in any information, exhibits, or schedules submitted, or circumstances disclosed in its last filed form BD. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of an amendment. Material changes shall include the following:

(A) A change in firm name, ownership, management, or control of a broker-dealer, or a change in any of its controlling persons; a change of business address; or the creation or termination of a branch office in Kansas;

(B) a change in the type of entity, general plan, or nature of a broker-dealer's business, method of operation, or type of securities in which it is dealing or trading;

(C) insolvency, dissolution, liquidation, or a material adverse change or impairment of working capital, or noncompliance with the minimum net capital as required by K.A.R. 81-3-7;

(D) termination of business or discontinuance of activities as a broker-dealer;

(E) the filing of a criminal charge or civil action against a registrant, or a controlling person, in which a fraudulent, dishonest, or unethical act is alleged or a violation of a securities law is involved; or

(F) the entry of an order or proceeding by any court or administrative agency against a registrant denying, suspending, or revoking a registration, or threatening to do so, or enjoining the registrant from engaging in or continuing any conduct or practice in the securities business.

(5) Withdrawal and termination of registration.

(A) Each application that has been on file for six months without any action taken by the applicant shall be considered withdrawn.

(B) If a broker-dealer desires to withdraw and terminate registration or registration is terminated by the administrator, the broker-dealer shall immediately file a completed form BDW either with the CRD or, if the broker-dealer was registered pursuant to paragraph (b)(1)(C), directly with the administrator.

(c) Registration requirements for agents.

(1) Initial application. Each applicant for registration as an agent shall complete form U-4 in accordance with the form instructions. The form for an agent of a broker-dealer shall be filed electronically with the CRD. A form U-4 shall be filed directly, in either paper or electronic form, with the administrator for an agent who is associated solely with an issuer or with an intrastate broker-dealer registered pursuant to paragraph (b)(1)(C). Each application for initial registration shall include the following items:

(A) The registration fee specified in K.A.R. 81-3-2(b);

(B) any reasonable fee charged by FINRA for filing through the CRD system; and

(C) proof of completion of the series 63 or series 66 examination with a passing score, in addition to successful completion of one other examination approved by the administrator and required for registration with FINRA. This examination requirement may be waived by the administrator for an applicant who has previously passed the required written examinations and whose last effective registration was not more than two years before the date of the filing of the present registration application. Additional examination requirements may be imposed by the administrator, or any applicant may be exempted from examination requirements pursuant to K.S.A. 17-12a412(e), and amendments thereto.

(2) Effective date of registration.

(A) Initial registration. Each registration shall become effective the 45th day after a completed application is filed unless the application is approved earlier by the administrator. If the administrator or the administrator's staff has given written notice of deficiencies in the application, the application shall not be considered complete until an amendment is filed to resolve the deficiencies.

(B) Transfer of employment or association. If an agent terminates employment by or association with a broker-dealer and begins employment by or association with another broker-dealer, and the second broker-dealer files an application for registration for the agent within 30 days after the termination, the application shall become effective pursuant to K.S.A. 17-12a408(b), and amendments thereto.

(3) Expiration and annual renewal of registration. Each agent registration shall expire on December 31, and each application for renewal of registration shall be filed not later than the deadline established by the CRD or the administrator, if filed directly with the administrator. Each application for renewal of registration shall include the fee specified in K.A.R. 81-3-2(b) and any reasonable fee charged by FINRA for filing through the CRD system.

(4) Updates and amendments. Each agent's employment or associated broker-dealer or issuer shall promptly

file with the CRD or the administrator an amendment to form U-4, in accordance with the instructions to form U-4, whenever there is any material change in any information, exhibits, or schedules submitted, or circumstances disclosed in the agent's last filed form U-4. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of an amendment. Material changes shall include any change in the registrant's name, residential address, office of employment address, and matters disclosed in the "disclosure questions" portion of form U-4.

(5) Withdrawal and termination of registration.

(A) Each application that has been on file for six months without any action taken by the applicant shall be considered withdrawn.

(B) If an agent's employment by or association with a broker-dealer or issuer is discontinued or terminated, the broker-dealer or issuer shall file a notice of termination within 30 days. If the agent commences employment by or association with another broker-dealer or issuer, that broker-dealer or issuer shall file an original application for registration.

(C) Termination of a broker-dealer's or issuer's registration for any reason shall automatically constitute cancellation of all associated agents' registrations. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a406, 17-12a407, 17-12a408, and 17-12a412(e); effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended, E-77-40, Aug. 12, 1976; amended Feb. 15, 1977; amended May 1, 1987; amended Oct. 7, 1991; amended June 28, 1993; amended May 31, 1996; amended Oct. 26, 2001; amended Aug. 18, 2006; amended Jan. 4, 2016.)

81-3-5. Sales of securities at financial institutions.

(a) Definitions. For purposes of this regulation, the following definitions shall apply:

(1) "Affiliate" means a company that controls, is controlled by, or is under common control with a broker-dealer as defined in FINRA rule 5121, which is adopted by reference in K.A.R. 81-2-1.

(2) "Broker-dealer services" means the investment banking or securities business that is conducted by a broker-dealer or a municipal or government securities broker or dealer other than a financial institution or department or division of a financial institution and consists of any of the following:

(A) Underwriting or distributing issues of securities;

(B) purchasing securities and offering the securities for sale as a dealer; or

(C) purchasing and selling securities upon the order and for the account of others.

(3) "Financial institution" means any federal-chartered or state-chartered bank, savings and loan association, savings bank, credit union, and any service corporation of these institutions located in Kansas.

(4) "Networking arrangement" and "brokerage affiliate arrangement" mean a contractual or other arrangement between a broker-dealer and a financial institution pursuant to which the broker-dealer conducts broker-dealer services on the premises of the financial institution where retail deposits are taken.

(b) Applicability. This regulation shall apply exclusively

(continued)

to broker-dealer services conducted by any broker-dealer on the premises of a financial institution where retail deposits are taken. This regulation shall not alter or abrogate a broker-dealer's obligations to comply with other applicable laws or regulations that may govern the operations of broker-dealers and their agents, including supervisory obligations. This regulation shall not apply to broker-dealer services provided to nonretail customers.

(c) Standards for broker-dealer conduct. No broker-dealer shall conduct broker-dealer services on the premises of a financial institution where retail deposits are taken unless the broker-dealer complies initially and continuously with the following requirements:

(1) Setting. Broker-dealer services shall be conducted in a physical location distinct from the area in which the financial institution's retail deposits are taken. In all situations, the broker-dealer shall identify its services in a manner that clearly distinguishes those services from the financial institution's retail deposit-taking activities. The broker-dealer's name shall be clearly displayed in the area in which the broker-dealer conducts its broker-dealer services.

(2) Networking and brokerage affiliate arrangements and program management. Networking and brokerage affiliate arrangements shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. Networking and brokerage affiliate arrangements shall stipulate that supervisory personnel of the broker-dealer and representatives of state securities authorities, where authorized by state law, will be permitted access to the financial institution's premises where the broker-dealer conducts broker-dealer services in order to inspect the books and records and other relevant information maintained by the broker-dealer with respect to its broker-dealer services. The broker-dealer shall be responsible for ensuring that the networking and brokerage affiliate arrangement clearly outlines the duties and responsibilities of all parties.

(3) Customer disclosure and written acknowledgment.

(A) When or before a customer's securities brokerage account is opened by a broker-dealer on the premises of a financial institution where retail deposits are taken, the broker-dealer shall perform the following:

(i) Disclose, orally and in writing, that the securities products purchased or sold in a transaction with the broker-dealer are not insured by the federal deposit insurance corporation ("FDIC") or the national credit union share insurance fund ("NCUSIF"), as applicable, are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution, and are subject to investment risks, including possible loss of the principal invested; and

(ii) make reasonable efforts to obtain from each customer during the account opening process a written acknowledgment of the disclosures required by paragraph (c)(3)(A)(i).

(B) If broker-dealer services include any written or oral representations concerning insurance coverage other than FDIC or NCUSIF insurance coverage, then clear and accurate written or oral explanations of the coverage shall also be provided to the customers when these representations are first made.

(4) Communications with the public.

(A) All of the broker-dealer's written confirmations and account statements shall indicate clearly that the broker-dealer services are provided by the broker-dealer.

(B) Recommendations by a broker-dealer concerning nondeposit investment products with a name similar to that of the financial institution shall occur only pursuant to a sales program designed to minimize the risk of customer confusion.

(C) Advertisements and sales literature.

(i) Advertisements and sales literature that announce the location of a financial institution where broker-dealer services are provided by the broker-dealer, or that are distributed by the broker-dealer on the premises of a financial institution, shall disclose that the securities products are not insured by the FDIC or the NCUSIF, as applicable, are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution, and are subject to investment risks, including possible loss of the principal invested.

(ii) To comply with the requirements of paragraph (c)(4)(C)(i), the following logo format disclosures may be used by a broker-dealer in advertisements and sales literature, including material published or designed for use in radio or television broadcasts, internet sites, automated teller machine screens, billboards, signs, posters, and brochures, if these disclosures, as applicable, are displayed in a conspicuous manner: "not FDIC insured," "no bank guarantee," "not NCUSIF insured," "no credit union guarantee," and "may lose value."

(iii) If the omission of the disclosures required by paragraph (c)(4)(C)(i) would not cause the advertisement or sales literature to be misleading in light of the context in which the material is presented, the disclosures shall not be required with respect to messages contained in radio broadcasts of 30 seconds or less; signs, including banners and posters, when used only as location indicators; and electronic signs, including billboard-type signs that are electronic, time and temperature signs, and ticker tape signs. However, the requirements of paragraph (c)(4)(C)(i) shall apply to messages contained in other media, including television, online computer services, and automated teller machines.

(5) Notification of termination. The broker-dealer shall promptly notify the financial institution if any agent of the broker-dealer who is employed by the financial institution is terminated for cause by the broker-dealer.

(d) "Dishonest or unethical practices," as used in K.S.A. 17-12a412(d)(13) and amendments thereto, shall include any conduct that violates subsection (c). (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a412; effective Oct. 26, 2001; amended Aug. 18, 2006; amended Jan. 4, 2016.)

81-3-6. Dishonest or unethical practices of broker-dealers and agents. (a) Unethical conduct. "Dishonest or unethical practices," as used in K.S.A. 17-12a412(d)(13) and amendments thereto, shall include the conduct prohibited in this regulation and the failure to adhere to standards of conduct specified in this regulation.

(b) Fraudulent conduct. "An act, practice, or course of business that operates or would operate as a fraud or deceit," as used in K.S.A. 17-12a501(3) and amendments

thereto, shall include the conduct prohibited in paragraphs (e)(9)(A), (9)(B), (10), (11), (14) through (18), (20), (21), (24), and (27), paragraphs (f)(1) through (6), and subsections (g) and (i).

(c) General standard of conduct. A person registered as a broker-dealer or agent under the act shall not fail to observe high standards of commercial honor and just and equitable principles of trade in the conduct of the person's business.

(d) FINRA, NASD, New York stock exchange, and SEC rules and laws. Failure by a person registered as a broker-dealer or agent under the act to comply with any of the following rules and laws, as adopted by reference in K.A.R. 81-2-1, shall constitute unethical conduct in violation of this regulation:

(1) NASD conduct rules within the series of rules 2300, 2400, 2500, 2700, 2800, 3000, and 3100 and FINRA rules within the series of rules 2100, 2200, 2300, 3100, 3200, 3300, 5100, 5200, and 5300;

(2) rule 472 of the New York stock exchange, "communications with the public";

(3) section 17 of the securities act of 1933, 15 U.S.C. § 77q;

(4) sections 9 and 10 of the securities exchange act of 1934, 15 U.S.C. §§ 78i and 78j;

(5) SEC regulation M, 17 C.F.R. 242.100 through 242.105;

(6) SEC regulation SHO, 17 C.F.R. 242.200 through 242.203; and

(7) SEC regulation FD, 17 C.F.R. 243.100 through 243.103.

(e) Prohibited conduct: sales and business practices. Each person registered as a broker-dealer or agent under the act shall refrain from the following practices in the conduct of the person's business. For purposes of this subsection, a security shall include any security as defined by K.S.A. 17-12a102, and amendments thereto, including a federal covered security as defined by K.S.A. 17-12a102, and amendments thereto, or section 2 of the securities act of 1933, 15 U.S.C. § 77b, as adopted by reference in K.A.R. 81-2-1.

(1) Delays in delivery or payment. A broker-dealer shall not engage in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of the broker-dealer's customers or in the payment upon request of free credit balances reflecting completed transactions of any of its customers.

(2) Excessive trading. A broker-dealer or agent shall not induce trading in a customer's account that is excessive in size or frequency in view of the financial resources and character of the account.

(3) Unsuitable recommendations. A broker-dealer or agent shall not recommend to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer or agent.

(4) Unauthorized trading. A broker-dealer or agent shall not execute a transaction on behalf of a customer without authorization to do so.

(5) Improper use of discretionary authority. A bro-

ker-dealer or agent shall not exercise any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time or price for the execution of orders.

(6) Failure to obtain margin agreement. A broker-dealer or agent shall not execute any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account.

(7) Failure to segregate. A broker-dealer shall not hold securities carried for the account of any customer that have been fully paid for or that are excess margin securities, unless the securities are segregated and identified by a method that clearly indicates the interest of the customer in those securities.

(8) Improper hypothecation. A broker-dealer shall not hypothecate a customer's securities without having a lien on the securities unless the broker-dealer has secured from the customer a properly executed written consent, except as permitted by SEC rule 8c-1, 17 C.F.R. 240.8c-1, or SEC rule 15c2-1, 17 C.F.R. 240.15c2-1, as adopted by reference in K.A.R. 81-2-1.

(9) Unreasonable charges. A broker-dealer or agent shall not engage in any of the following conduct:

(A) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security;

(B) receiving an unreasonable commission or profit; or

(C) charging unreasonable and inequitable fees for services performed, including the collection of monies due for principal, dividends, or interest; exchange or transfer of securities; appraisals; safekeeping or custody of securities; and other miscellaneous services related to the broker-dealer's securities business.

(10) Failure to timely deliver prospectus. A broker-dealer or agent shall not fail to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document that together include all information set forth in the final prospectus.

(11) Contradicting prospectus. A broker-dealer or agent shall not contradict or negate the importance of any information contained in a prospectus or any other offering materials with the intent to deceive or mislead.

(12) Non-bona fide offers. A broker-dealer shall not offer to buy from or sell to any person any security at a stated price, unless the broker-dealer is prepared to purchase or sell at the price and under the conditions that are stated at the time of the offer to buy or sell.

(13) Misrepresentation of market price. A broker-dealer shall not represent that a security is being offered to a customer "at the market" or at a price relevant to the market price, unless the broker-dealer knows or has reasonable grounds to believe that a market for the security exists other than a market made, created, or controlled by the broker-dealer, any person for whom the broker-dealer is acting or with whom the broker-dealer is associated in the distribution of securities, or any person controlled by, controlling, or under common control with the broker-dealer.

(continued)

(14) Market manipulation. A broker-dealer or agent shall not effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance, including the following:

(A) Effecting any transaction in a security that involves no change in its beneficial ownership;

(B) entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of the same security for substantially the same volume, time, and price have been or will be entered for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security. However, nothing in this paragraph shall prohibit a broker-dealer from entering bona fide agency cross transactions for the broker-dealer's customers;

(C) effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in the security or raising or depressing the price of the security for the purpose of inducing the purchase or sale of the security by others;

(D) engaging in general solicitation and using aggressive, high-pressure, or deceptive marketing tactics to affect the market price of the security; and

(E) using fictitious or nominee accounts.

(15) Guarantees against loss. A broker-dealer shall not guarantee a customer against loss in any securities account of the customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer.

(16) Deceptive advertising. A broker-dealer or agent shall not use any advertising or sales presentation in a manner that is deceptive or misleading, including the following:

(A) Using words, pictures, or graphs in an advertisement, brochure, flyer, or display to present any nonfactual data or material; any conjecture, unfounded claims or assertions, or unrealistic claims or assertions; or any information that supplements, detracts from, supersedes or defeats the purpose or effect of any prospectus or disclosure; and

(B) publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind that purports to report any transaction as a purchase or sale of any security unless the broker-dealer or agent believes that the transaction was a bona fide purchase or sale of the security or that purports to quote the bid price or asked price for any security unless the broker-dealer or agent believes that the quotation represents a bona fide bid for or offer of the security.

(17) Failure to disclose conflicts of interest. A broker-dealer shall not fail to disclose to any customer that the broker-dealer is controlled by, controlling, affiliated with, or under common control with the issuer of a security that is offered or sold to the customer. The disclosure shall be made before entering into any contract with or for the customer for the purchase or sale of the security, and if the disclosure is not made in writing, the disclosure shall be supplemented by the giving or sending of written disclosure before the completion of the transaction.

(18) Withholding securities. A broker-dealer shall not

fail to make a bona fide public offering of all of the securities allotted to the broker-dealer for distribution, whether acquired as an underwriter, as a selling group member, or from a member participating in the distribution as an underwriter or selling group member, by engaging in conduct including the following:

(A) Parking or withholding securities; and

(B) transferring securities to a customer, another broker-dealer, or a fictitious account with the understanding that those securities will be returned to the broker-dealer or the broker-dealer's nominees.

(19) Failure to respond to customer. A broker-dealer shall not fail or refuse to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint.

(20) Misrepresenting the possession of nonpublic information. A broker-dealer or agent shall not falsely lead a customer to believe that the broker-dealer or agent is in possession of material, nonpublic information that would impact the value of a security.

(21) Contradictory recommendations. A broker-dealer or agent shall not engage in a pattern or practice of making contradictory recommendations to different investors of similar investment objectives for some to sell and others to purchase the same security, at or about the same time, if not justified by the particular circumstances of each investor.

(22) Lending, borrowing, or maintaining custody. An agent shall not lend or borrow money or securities from a customer, or act as a custodian for money, securities, or an executed stock power of a customer.

(23) Selling away. An agent shall not effect a securities transaction that is not recorded on the regular books or records of the broker-dealer that the agent represents, unless the transaction is authorized in writing by the broker-dealer before the execution of the transaction.

(24) Fictitious account information. An agent shall not establish or maintain an account containing fictitious information.

(25) Unauthorized profit-sharing. An agent shall not share directly or indirectly in the profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer that the agent represents.

(26) Commission splitting. An agent shall not divide or otherwise split the agent's commissions, profits, or other compensation from the purchase or sale of securities with any person who is not also registered as an agent for the same broker-dealer or a broker-dealer under direct or indirect common control.

(27) Misrepresenting solicited transactions. A broker-dealer or agent shall not mark any order ticket or confirmation as unsolicited if the transaction was solicited.

(28) Failure to provide account statements. A broker-dealer or agent shall not fail to provide to each customer, for any month in which activity has occurred in a customer's account and at least every three months, a statement of account that contains a value for each over-the-counter non-Nasdaq equity security in the account based on the closing market bid on a date certain, if the broker-dealer has been a market maker in the security at any time during the period covered by the statement of

account.

(f) Prohibited conduct: over-the-counter transactions. A broker-dealer or agent shall not engage in the following conduct in connection with the solicitation of a purchase or sale of an over-the-counter, unlisted non-Nasdaq equity security:

(1) Failing to disclose to a customer, at the time of solicitation and on the confirmation, any and all compensation related to a specific securities transaction to be paid to the agent, including commissions, sales charges, and concessions;

(2) in connection with a principal transaction by a broker-dealer that is a market maker, failing to disclose to a customer, both at the time of solicitation and on the confirmation, the existence of a short inventory position in the broker-dealer's account of more than three percent of the issued and outstanding shares of that class of securities of the issuer;

(3) conducting sales contests in a particular security;

(4) failing or refusing to promptly execute sell orders after a solicited purchase by a customer in connection with a principal transaction;

(5) soliciting a secondary market transaction if there has not been a bona fide distribution in the primary market;

(6) engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same security; and

(7) failing to promptly provide the most current prospectus or the most recently filed periodic report filed under section 13 of the securities exchange act of 1934 when requested to do so by the customer.

(g) Prohibited conduct: designated security transactions.

(1) Except as specified in paragraph (g)(2), a broker-dealer or agent shall not engage in the following conduct in connection with the solicitation of a purchase of a designated security:

(A) Failing to disclose to the customer the bid and ask price at which the broker-dealer effects transactions of the security with individual retail customers, as well as the price spread in both percentage and dollar amounts at the time of solicitation and on the trade confirmation documents; and

(B) failing to include with the confirmation a written explanation of the bid and ask price.

(2) Exceptions. Paragraph (g)(1) shall not apply to the following transactions:

(A) Transactions in which the price of the designated security is five dollars or more, exclusive of costs or charges. However, if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities shall be five dollars or more, and any component of the unit that is a warrant, option, right, or similar securities, or a convertible security shall have an exercise price or conversion price of five dollars or more;

(B) transactions that are not recommended by the broker-dealer or agent;

(C) transactions by a broker-dealer whose commissions, commission equivalents, and markups from transactions in designated securities during each of the immediately preceding three months, and during 11 or more

of the preceding 12 months, did not exceed five percent of its total commissions, commission-equivalents, and markups from transactions in securities during those months and who has not executed principal transactions in connection with the solicitation to purchase the designated security that is the subject of the transaction in the immediately preceding 12 months; and

(D) any transaction or transactions that, upon prior written request or upon the administrator's own motion, the administrator conditionally or unconditionally exempts as not encompassed within the scope of paragraph (g)(1).

(h) Prohibited conduct: investment company shares.

(1) A broker-dealer or agent shall not engage in the following conduct in connection with the solicitation of a purchase or sale of investment company shares:

(A) Failing to adequately disclose to a customer all sales charges, including asset-based and contingent deferred sales charges, that could be imposed with respect to the purchase, retention, or redemption of investment company shares;

(B) stating or implying to a customer, either orally or in writing, that the shares are sold without a commission, are "no load," or have "no sales charge" if there is associated with the purchase of the shares a front-end charge; a contingent deferred sales charge; a fee pursuant to SEC rule 12b-1, 17 C.F.R. § 270.12b-1, as adopted by reference in K.A.R. 81-2-1, or a service fee that in total exceeds .25 percent of average net fund assets per year; or, in the case of closed-end investment company shares, underwriting fees, commissions, or other offering expenses;

(C) failing to disclose to a customer any relevant sales charge discount on the purchase of shares in dollar amounts at or above a breakpoint, or failing to disclose any relevant letter of intent feature, if available, that will reduce the sales charges;

(D) recommending to a customer the purchase of a specific class of investment company shares in connection with a multiclass sales charge or fee arrangement without reasonable grounds to believe that the sales charge or fee arrangement associated with the class of shares is suitable and appropriate based on the customer's investment objectives, financial situation, other securities holdings, and the associated transaction or other fees;

(E) recommending to a customer the purchase of investment company shares that results in the customer's simultaneously holding shares in different investment company portfolios having similar investment objectives and policies without reasonable grounds to believe that the recommendation is suitable and appropriate based on the customer's investment objectives, financial situation, other securities holdings, and any associated transaction charges or other fees;

(F) recommending to a customer the liquidation or redemption of investment company shares for the purpose of purchasing shares in a different investment company portfolio having similar investment objectives and policies without reasonable grounds to believe that the recommendation is suitable and appropriate based on the customer's investment objectives, financial situation, other securities holdings, and any associated transaction

(continued)

charges or other fees;

(G) stating or implying to a customer the fund's current yield or income without disclosing the fund's average annual total return, as stated in the fund's most recent form N-1A filed with the SEC, for one-year, five-year, and 10-year periods and without fully explaining the difference between current yield and total return. However, if the fund's registration statement under the securities act of 1933 has been in effect for less than one, five, or 10 years, the time during which the registration statement was in effect shall be substituted for the periods otherwise prescribed;

(H) stating or implying to a customer that the investment performance of an investment company portfolio is comparable to that of a savings account, certificate of deposit, or other bank deposit account without disclosing to the customer the fact that the shares are not insured or otherwise guaranteed by the federal deposit insurance corporation ("FDIC") or any other government agency and the relevant differences regarding risk, guarantees, fluctuation of principal or return or both, and any other factors that are necessary to ensure that the comparisons are fair, complete, and not misleading;

(I) stating or implying to a customer the existence of insurance, credit quality, guarantees, or similar features regarding securities held, or proposed to be held, in the investment company's portfolio without disclosing to the customer the other kinds of relevant investment risks, including interest rate, market, political, liquidity, and currency exchange risks, that could adversely affect investment performance and result in loss or fluctuation of principal despite the creditworthiness of the portfolio securities;

(J) stating or implying to a customer that the purchase of shares shortly before an ex dividend date is advantageous to the customer unless there are specific, clearly described tax or other advantages to the customer, or stating or implying that a distribution of long-term capital gains by an investment company is part of the income yield from an investment in the shares; and

(K) making projections of future performance, statements not warranted under existing circumstances, or statements based upon nonpublic information.

(2) In connection with the solicitation of investment company shares, the delivery of a prospectus shall not be dispositive that the broker-dealer or agent has given the customer full and fair disclosure or has otherwise fulfilled the duties specified in this subsection.

(i) Prohibited conduct: use of senior-specific certifications and professional designations.

(1) A broker-dealer or agent shall not use a senior-specific certification or designation that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees in any way that misleads any person. This prohibition shall include the following:

(A) The use of a certification or professional designation by a person who has not earned or is otherwise ineligible to use the certification or designation;

(B) the use of a nonexistent or self-conferred certification or professional designation;

(C) the use of a certification or professional designation

that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(D) the use of a certification or professional designation that was obtained from a designating or certifying organization that meets any of the following conditions:

(i) Is primarily engaged in the business of instruction in sales or marketing;

(ii) does not have reasonable standards or procedures for ensuring the competency of its designees or certificate holders;

(iii) does not have reasonable standards or procedures for monitoring and disciplining its designees or certificate holders for improper or unethical conduct; or

(iv) does not have reasonable continuing education requirements for its designees or certificate holders to maintain the professional designation or certification.

(2) There shall be a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of paragraph (i)(1)(D) if the organization has been accredited by any of the following:

(A) The American national standards institute;

(B) the national commission for certifying agencies; or

(C) an organization that is on the United States department of education's list titled "accrediting agencies recognized for title IV purposes," if the designation or credential does not primarily apply to sales or marketing, or both.

(3) In determining whether a combination of words or an acronym or initialism standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, the factors to be considered shall include the following:

(A) The use of one or more words including "senior," "retirement," "elder," or similar words, combined with one or more words including "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or similar words, in the name of the certification or professional designation; and

(B) the manner in which the words are combined.

(4) For purposes of this subsection, the terms "certification" and "professional designation" shall not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, including an agency that regulates broker-dealers, investment advisers, or investment companies, if that job title indicates seniority or standing within the organization or specifies an individual's area of specialization within the organization. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a412(d)(13), 17-12a501(3), and 17-12a608; effective Aug. 18, 2006; amended May 22, 2009; amended Jan. 4, 2016.)

§1-3-7. Supervisory, financial reporting, record-keeping, net capital, and operational requirements for broker-dealers. (a) Supervision.

(1) Annual review. Each broker-dealer shall conduct a review, at least annually, of the businesses in which it engages. The review shall be reasonably designed to assist in detecting and preventing violations of and achiev-

ing compliance with the act, these regulations, and other applicable laws, regulations, and rules of self-regulatory organizations.

(2) Supervisory procedures. Each broker-dealer shall establish and maintain supervisory procedures that shall be reasonably designed to assist in detecting violations of, preventing violations of, and achieving compliance with the act, these regulations, and other applicable laws, regulations, and rules of self-regulatory organizations. In determining whether supervisory procedures are reasonably designed, relevant factors including the following may be considered by the administrator:

- (A) The firm's size;
- (B) the organizational structure;
- (C) the scope of business activities;
- (D) the number and location of offices;
- (E) the nature and complexity of products and services offered;
- (F) the volume of business done;
- (G) the number of agents assigned to a location;
- (H) the presence of an on-site principal at a location;
- (I) the specification of the office as a non-branch location; and

(J) the disciplinary history of the registered agents.

(3) Supervision of non-branch offices. The procedures established and the reviews conducted shall provide sufficient supervision at remote offices to ensure compliance with all applicable securities laws and regulations and self-regulatory organization rules. Based on the factors specified in paragraph (a)(2), certain non-branch offices may require more frequent reviews or more stringent supervision.

(4) Failure to supervise. If a broker-dealer fails to comply with this subsection, the broker-dealer may be deemed to have "failed to reasonably supervise" its agents under K.S.A. 17-12a412(d)(9), and amendments thereto.

(b) Annual reports. Each broker-dealer registered under the act shall make and maintain an annual report for the broker-dealer's most recent fiscal year.

(1) Filing. Each broker-dealer shall file the annual report with the administrator within five days of a request by the administrator or the administrator's staff.

(2) Contents of annual report. Each annual report shall contain financial statements that include the following:

(A) A statement of financial condition and notes to the statement of financial condition presented in conformity with GAAP; and

(B) disclosure of the broker-dealer's net capital, which shall be calculated in accordance with subsection (c).

(3) Auditing. Unless otherwise permitted, an independent CPA shall audit the financial statements in accordance with generally accepted auditing standards.

(4) Recognition of federal standards. For purposes of uniformity, a copy of audited financial statements in compliance with SEC rule 17a-5(d), 17 C.F.R. 240.17a-5(d), as adopted by reference in K.A.R. 81-2-1, shall be deemed to comply with paragraphs (b)(2) and (b)(3).

(c) Books and records. Each registered broker-dealer shall maintain and preserve records in compliance with SEC rule 17a-3, 17 C.F.R. 240.17a-3, and SEC rule 17a-4, 17 C.F.R. 240.17a-4, which are adopted by reference in K.A.R. 81-2-1.

(d) Minimum net capital requirements.

(1) Each broker-dealer registered under the act shall comply with SEC rule 15c3-1, 17 C.F.R. 240.15c3-1, SEC rule 15c3-3, 17 C.F.R. 240.15c3-3, and SEC rule 15c3-3a, 17 C.F.R. 240.15c3-3a, as applicable, as adopted by reference in K.A.R. 81-2-1.

(2) Each registered broker-dealer shall comply with SEC rule 17a-11, 17 C.F.R. 240.17a-11, as adopted by reference in K.A.R. 81-2-1, and shall simultaneously file with the administrator copies of notices and reports required by that rule.

(e) Confirmations. At or before completion of each transaction with a customer, the broker-dealer shall give or send to the customer a written notification that conforms with SEC rule 10b-10, 17 C.F.R. 240.10b-10, as adopted by reference in K.A.R. 81-2-1. (Authorized by K.S.A. 2014 Supp. 17-12a411 and K.S.A. 17-12a605(a); implementing K.S.A. 2014 Supp. 17-12a411, K.S.A. 17-12a412(d)(9), 17-12a605(c), and 17-12a608; effective Aug. 18, 2006; amended Jan. 4, 2016.)

Article 4.—REGISTRATION OF SECURITIES

81-4-1. Registration of securities. (a) Original applications. The following documents and fee shall be required with each original application submitted for registration of securities:

(1) Forms U-1 and U-2;

(2) form U-2A, if applicable;

(3) the documents and exhibits required for registration by coordination as specified in K.S.A. 17-12a303(b), and amendments thereto, or registration by qualification as specified in K.S.A. 17-12a304(b), and amendments thereto, if not already included as required by form U-1;

(4) any other document or information requested by the administrator; and

(5) a registration fee of .05 percent (one twentieth of one percent) of the maximum aggregate offering price at which the securities are to be offered in this state, but not less than \$100 and not more than \$1,500 for each year that the registration is effective. If a registration statement or application is withdrawn before the effective date or a pre-effective stop order is issued under K.S.A. 17-12a306 and amendments thereto, the administrator shall retain the full amount of the registration fee.

(b) Regulation A tier 1 offerings. Each registration application for which an offering statement on form 1-A has been filed with the SEC under regulation A for a tier 1 offering pursuant to SEC rule 251, 17 C.F.R. 230.251, as adopted by reference in K.A.R. 81-2-1, shall be filed by qualification under K.S.A. 17-12a304, and amendments thereto.

(c) Post-effective amendments. If a post-effective amendment for material changes in information or documents is required by K.S.A. 17-12a305(j) and amendments thereto, the amendment shall be filed within two business days after an amendment is filed with the SEC for securities registered by coordination, or within five business days after a material change occurs for securities registered by qualification.

The amendment filing shall include a cover letter that explains the nature of the material changes and copies of

(continued)

all amended documents that are clearly marked to identify the material changes. The registrant shall provide further explanation or information upon request by the administrator. Upon approval by the administrator, the amendment may be filed electronically.

(d) Extensions of registration. The effective period of a registration statement may be extended for an additional year after the original or previously extended registration period expires, or for less than one year if the registered offering is completed and terminated in compliance with subsection (f).

(1) The following documents and fee shall be required with each application submitted to extend the effective period of a registration statement:

(A) Form KSC-1 or a uniform form or document that includes the information required by form KSC-1;

(B) a registration fee as specified in paragraph (a)(5), based on the aggregate amount of securities to be offered during the extended effective period; and

(C) one copy of the prospectus to be delivered to prospective investors for offers during the extended period of effectiveness, which shall include audited financial statements for the most recent fiscal year of the issuer, unless a prospectus meeting this requirement is already on file with the administrator. If the extension application is filed before the most recent audited financial statements are available, the issuer shall undertake to file an updated prospectus containing the statements no later than 90 days after the end of the issuer's fiscal year.

(2) The effective date of each extended registration shall be one year after the previous effective date.

(3) The due date for filing each extension application shall be 10 business days before the date on which the registration is due to expire.

(e) Abandoned applications. If an applicant for registration of securities does not respond in writing within six months after receiving a written inquiry or deficiency letter from the administrator or the applicant takes no action on a pending application and fails to communicate in writing with the administrator for six months, the application shall be deemed abandoned. Each abandoned application shall be disregarded, and a notice of abandonment shall be issued by the administrator. To obtain further consideration of an abandoned application, the applicant shall file a new, complete application.

(f) Final report. Upon completion of a registered offering or upon expiration of the effective period of a registration statement that is not being extended, the registrant shall file with the administrator a final report of sales of securities in this state on form KSC-1 or a document that includes the information required by form KSC-1. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a303, 17-12a304, and 17-12a305; effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended, T-88-29, Aug. 19, 1987; amended May 1, 1988; amended, T-81-8-23-91, Aug. 23, 1991; amended Oct. 7, 1991; amended May 31, 1996; amended Jan. 19, 2007; amended Jan. 4, 2016.)

81-4-4. Registration requirements for not-for-profit issuers. Before the offer or sale of any note, bond, debenture, or other evidence of indebtedness by a not-for-profit issuer specified in K.S.A. 17-12a201(7) and amendments

thereto, the issuer shall register the security pursuant to K.S.A. 17-12a304 and amendments thereto, unless one of the following conditions is met:

(a) The security or transaction is exempt under any provision of the Kansas uniform securities act other than K.S.A. 17-12a201(7), and amendments thereto.

(b) The issuer is excluded from the definition of an investment company, and the security is issued in exchange for assets contributed to a fund pursuant to section 3(c)(10)(B) of the investment company act of 1940, 15 U.S.C. section 80a-3(c)(10)(B), as adopted by reference in K.A.R. 81-2-1. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a201(7)(C); effective, T-81-8-22-05, Aug. 22, 2005; effective Dec. 16, 2005; amended Jan. 4, 2016.)

Article 5.—EXEMPTIONS

81-5-7. Exchange exemption. A security shall be exempt under K.S.A. 17-12a201(6)(B), and amendments thereto, if the security is listed or authorized for listing on either of the following exchanges or if the security has seniority equal to or greater than the seniority of a security of the same issuer that is listed or authorized for listing on either of the following exchanges:

(a) Tier I of the Chicago stock exchange; or

(b) tier II of the NYSE Arca, inc. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a201(6)(B); effective, T-87-28, Oct. 1, 1986; amended May 1, 1987; amended Oct. 24, 1994; amended May 31, 1996; amended Oct. 26, 2001; amended Jan. 19, 2007; amended Aug. 15, 2008; amended Jan. 4, 2016.)

81-5-15. Notice filings and fees for rule 506 offerings. (a) Each issuer of a security under SEC rule 506, 17 C.F.R. 230.506, as adopted by reference in K.A.R. 81-2-1, shall file a notice of sale on form D with the administrator within 15 days after the first sale of the security in Kansas. The form D shall be completed in accordance with the instructions for the form and shall be filed either through the EFD system electronically or on a paper form D that is mailed to the administrator.

(b)(1) Each issuer of a security specified in subsection (a) shall pay a fee of \$250 to the administrator with each timely filing under subsection (a).

(2) If a form D is not filed as required by subsection (a) within 15 days after the first sale of the security in Kansas, the issuer of the security shall pay to the administrator the greater of the following amounts, unless the administrator agrees to assess a lesser fee pursuant to K.S.A. 17-12a307, and amendments thereto:

(A) \$500; or

(B) one-tenth of one percent of the dollar value of the securities that were sold to Kansas residents before the date on which the form D is filed, not to exceed \$5,000.

(3) For each electronic filing of form D, the fee shall be remitted to the EFD.

(c) This regulation shall not apply if the security or transaction is otherwise exempt from registration under any provision of the Kansas uniform securities act. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 2014 Supp. 17-12a302(c) and K.S.A. 17-12a307; effective, T-81-8-22-05, Aug. 22, 2005; effective Dec. 20, 2005; amended Jan. 4, 2016.)

81-5-17. Standard manuals exemption. The following printed or electronic versions of securities manuals shall be designated by the administrator for use under K.S.A. 17-12a202(2)(A)(iv), and amendments thereto:

(a) "S&P capital IQ standard corporation descriptions"; and

(b) "mergent's manuals." (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a202; effective Jan. 19, 2007; amended Jan. 4, 2016.)

81-5-21. Invest Kansas exemption. (a) Exemption from registration requirements. The offer or sale of a security by an issuer shall be exempt from the requirements of K.S.A. 17-12a301 through 17-12a306 and K.S.A. 17-12a504, and amendments thereto, if the offer or sale is conducted in accordance with each of the following requirements:

(1) The issuer of the security shall be a business or organization formed under the laws of the state of Kansas and registered with the secretary of state.

(2) The transaction shall meet the requirements of the federal exemption for intrastate offerings in section 3(a)(11) of the securities act of 1933, 15 U.S.C. § 77c(a)(11), and SEC rule 147, 17 C.F.R. 230.147, as adopted by reference in K.A.R. 81-2-1.

(3) The sum of all cash and other consideration to be received for all sales of securities in reliance upon this exemption shall not exceed \$1,000,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption.

(4) The issuer shall not accept more than \$5,000 from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 C.F.R. 230.501, as adopted by reference in K.A.R. 81-2-1. Two or more individual purchasers residing at the same primary residence who are not accredited investors and have a close family relationship shall be treated as a single purchaser for purposes of the \$5,000 limit.

(5) A commission or other remuneration shall not be paid or given, directly or indirectly, for any person's participation in the offer or sale of securities for the issuer unless the person is registered as a broker-dealer or agent under the act.

(6) All funds received from investors shall be deposited into a bank or depository institution authorized to do business in Kansas, and all the funds shall be used in accordance with representations made to investors.

(7) Before the use of any general solicitation, the issuer shall file a notice with the administrator on form IKE, providing the names and addresses of the following persons:

(A) The issuer;

(B) all persons who will be involved in the offer or sale of securities on behalf of the issuer; and

(C) the bank or other depository institution in which investor funds will be deposited.

(8) The issuer shall not be, either before or as a result of the offering, an investment company as defined in section 3 of the investment company act of 1940, 15 U.S.C. § 80a-3, or subject to the reporting requirements of section 13 or 15(d) of the securities exchange act of 1934, 15 U.S.C. § 78m and 78o(d), as adopted by reference in K.A.R. 81-2-1.

(9) The issuer shall inform all purchasers that the secu-

rities have not been registered under the act and, therefore, cannot be resold unless the securities are registered or qualify for an exemption from registration under K.S.A. 17-12a202 and amendments thereto, K.A.R. 81-5-3, or another regulation. In addition, the issuer shall make the disclosures required by subsection (f) of SEC rule 147, 17 C.F.R. 230.147(f), as adopted by reference in K.A.R. 81-2-1.

(b) Interaction with other exemptions and sales to controlling persons. This exemption shall not be used in conjunction with any other exemption under these regulations. Sales to controlling persons shall not count toward the limitation in paragraph (a)(3).

(c) Disqualifications. This exemption shall not be available if the issuer is subject to a disqualifying event specified in K.A.R. 81-5-13(b), except as permitted under K.A.R. 81-5-13(c). (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a203; effective Aug. 12, 2011; amended Jan. 4, 2016.)

Article 6.—PROSPECTUS

81-6-1. Prospectus. (a) Filing. Each application for the registration of securities shall include the prospectus to be used in connection with the proposed securities offering.

(b) Form and content.

(1) Registration by coordination. Each prospectus for a securities offering filed for registration by coordination under K.S.A. 17-12a303, and amendments thereto, shall contain the information required in part I of the registration statement filed by the issuer under the securities act of 1933, unless the administrator modifies or waives the requirements pursuant to K.S.A. 17-12a307, and amendments thereto.

(2) Registration by qualification. Each prospectus for a securities offering filed for registration by qualification under K.S.A. 17-12a304, and amendments thereto, shall contain the information required by that statute unless the administrator modifies or waives the requirements pursuant to K.S.A. 17-12a304 or 17-12a307, and amendments thereto. The prospectus may be submitted on one of the following forms that is applicable to the type of securities offering, in accordance with the instructions to the form:

(A) Part II of SEC form 1-A, regulation A offering statement under the securities act of 1933;

(B) part I of SEC form S-1, registration statement under the securities act of 1933;

(C) form U-7 if the issuer meets the requirements of K.A.R. 81-4-2; or

(D) any other form allowed by the administrator, if the prospectus is filed in compliance with the applicable requirements of the securities act of 1933.

(c) Delivery requirements. As a condition of registration under K.S.A. 17-12a304 and amendments thereto, the issuer shall deliver a copy of the entire prospectus to each person to whom an offer is made, before or concurrently, with the earliest of the events specified in K.S.A. 17-12a304, and amendments thereto. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a303 and 17-12a304; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1987; amended March 25, 1991; amended May 31, 1996; amend-

(continued)

ed Jan. 19, 2007; amended Jan. 4, 2016.)

Article 7.—POLICY RELATING TO REGISTRATION

81-7-1. General statements of policy for registration of securities. (a) NASAA statements of policy. Each registration statement shall meet the requirements of each NASAA statement of policy that is applicable to the issuer, registration statement, type of security, or other circumstances of the offering. The following NASAA statements of policy are hereby adopted by reference:

- (1) "Statement of policy regarding corporate securities definitions," as amended on March 31, 2008;
- (2) "statement of policy regarding the impoundment of proceeds," as amended on March 31, 2008;
- (3) "statement of policy regarding loans and other material transactions," as amended on March 31, 2008;
- (4) "statement of policy regarding options and warrants," as amended on March 31, 2008;
- (5) "statement of policy regarding preferred stock," as amended on March 31, 2008;
- (6) "statement of policy regarding promoter's equity investment," as amended on March 31, 2008;
- (7) "statement of policy regarding promotional shares," as amended on March 31, 2008;
- (8) "statement of policy regarding specificity in use of proceeds," as amended on March 31, 2008;
- (9) "statement of policy regarding underwriting expenses, underwriter's warrants, selling expenses and selling security holders," as amended on March 31, 2008;
- (10) "statement of policy regarding unsound financial condition," as amended on March 31, 2008; and
- (11) "statement of policy regarding unequal voting rights," as amended on March 31, 2008.

(b) Financial statements. Each registration statement shall meet the requirements for financial statements under K.A.R. 81-7-3, unless the administrator waives or modifies the requirements for good cause shown under one of the following circumstances:

- (1) The registration statement contains financial statements that meet specific requirements of a statement of policy adopted under subsection (a) or another regulation, and the administrator determines that the financial statements are sufficient in light of the issuer, registration statement, type of security, or other circumstances of the offering.
- (2) The registration statement was filed for registration by coordination under K.S.A. 17-12a303, and amendments thereto, and contains financial statements that meet SEC requirements.
- (3) The registration statement was submitted for coordinated review under K.S.A. 17-12a608(c)(7), and amendments thereto, and the administrator determines that a waiver or modification would promote uniformity with other states.

(c) Whenever terms within the context of NASAA statements of policy adopted by reference in this regulation are in conflict with definitions under the act and these regulations, the definitions in the NASAA statements of policy shall apply. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a306(b) and 17-12a608(c); effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended Jan. 1, 1972; amended,

T-88-65, Dec. 30, 1987; amended May 1, 1988; amended Oct. 24, 1988; amended June 28, 1993; amended Jan. 19, 2007; amended Jan. 4, 2016.)

81-7-2. Statements of policy for specific types of securities offerings. (a) If one of the NASAA guidelines or statements of policy adopted in subsection (b) applies to a securities offering, the registration statement shall meet the requirements of the applicable NASAA guideline or statement of policy.

(b) The following NASAA guidelines and statements of policy are hereby adopted by reference, except as modified in paragraph (b)(13):

- (1) "Registration of asset-backed securities," as amended on May 6, 2012;
- (2) "registration of publicly offered cattle-feeding programs," as adopted on September 17, 1980;
- (3) "statement of policy regarding church bonds" and the related "cross reference sheet," as adopted on April 14, 2002;
- (4) "statement of policy regarding church extension fund securities," as amended on April 18, 2004;
- (5) "registration of commodity pool programs," as amended on May 6, 2012;
- (6) "statement of policy regarding debt securities," as adopted on April 25, 1993;
- (7) "equipment programs," as amended on May 6, 2012;
- (8) "NASAA mortgage program guidelines," as amended on May 7, 2007;
- (9) "registration of oil and gas programs," as amended on May 6, 2012;
- (10) "omnibus guidelines," as amended on May 7, 2007;
- (11) "statement of policy regarding real estate investment trusts," as revised and adopted on May 7, 2007;
- (12) "statement of policy regarding real estate programs," as revised on May 7, 2007; and
- (13) "guidelines regarding viatical investments," including appendix A, as in effect on January 1, 2006, which shall be modified as follows:
 - (A) In section I.B.14.a of the guidelines, the phrase "[reference to state statute or most recent version of the National Association of Insurance Commissioners ('NAIC') Model Viatical Settlement Act]" shall be replaced with "K.S.A. 40-5002(o), and amendments thereto";
 - (B) in section I.B.16, the phrase "[broker dealer]" shall be replaced with "broker-dealer," the term "[agent]" shall be replaced with "agent," and the phrase "[reference to statutory definition of issuer]" shall be replaced with "K.S.A. 17-12a102(17), and amendments thereto";
 - (C) in section I.B.17, the phrase "[reference to state statute or most recent version of the NAIC Model Viatical Settlement Act]" shall be replaced with "K.S.A. 40-5002(n), and amendments thereto";
 - (D) in section III.B, the brackets shall be removed, and the bracketed amounts shall remain in effect;
 - (E) in section VI.14, the phrase "[NAIC Model Viatical Settlement Act or similar viatical regulatory act of the particular state]" shall be replaced with "viatical settlement act of 2002, K.S.A. 40-5002 et seq., and amendments thereto"; and
 - (F) in the last sentence of section VI, the phrase "[statutory reference]" shall be replaced with "K.S.A. 17-12a411(d), and amendments thereto."

(c) The omnibus guidelines adopted in paragraph (b) (10) shall be applied to limited partnership programs or other entities for which more specific guidelines or statements of policy have not been adopted by NASAA, unless the administrator waives or modifies the requirements of the omnibus guidelines or applies other NASAA guidelines or statements of policy for good cause shown.

(d) In addition to the income and net worth standards and other suitability requirements contained within the NASAA guidelines and statements of policy adopted under subsection (b), the administrator may require that the registration statement include a statement that recommends or requires each purchaser to limit the purchaser's aggregate investment in the securities of the issuer and other similar investments to not more than 10 percent of the purchaser's liquid net worth. For purposes of this subsection, liquid net worth shall be defined as that portion of the purchaser's total net worth that is comprised of cash, cash equivalents, and readily marketable securities, as determined in conformity with GAAP.

(e) Each registration statement subject to a guideline or statement of policy adopted under subsection (b) shall meet the requirements for financial statements under K.A.R. 81-7-3, unless the administrator waives or modifies the requirements for good cause shown under any of the following circumstances:

(1) The registration statement contains financial statements that meet the specific requirements of another guideline or statement of policy adopted under subsection (b) or another regulation, and the administrator determines that the financial statements are sufficient for the particular type of securities registration.

(2) The registration statement was filed for registration by coordination under K.S.A. 17-12a303, and amendments thereto, and contains financial statements that meet the SEC requirements.

(3) The registration statement was submitted for coordinated review under K.S.A. 17-12a608(c)(7) and amendments thereto, and the administrator determines that a waiver or modification would promote uniformity with other states.

(f) Each application for registration subject to a guideline or statement of policy adopted under subsection (b) shall include a cross-reference table to indicate compliance with the various sections of the applicable guideline or statement of policy.

(g) Whenever terms within the context of NASAA guidelines or statements of policy adopted by reference in this regulation are in conflict with definitions under the act and these regulations, the definitions in the NASAA guidelines or statements of policy shall apply. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a306(b) and 17-12a608(c); effective June 28, 1993; amended May 31, 1996; amended Jan. 19, 2007; amended Aug. 15, 2008; amended Jan. 4, 2016.)

Article 14.—INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

81-14-1. Registration procedures for investment advisers and investment adviser representatives. (a) General provisions.

(1) Each applicant shall be at least 18 years of age. If the

applicant is not an individual, then the directors, officers, managing partners, or managing members of the applicant shall be at least 18 years of age.

(2) Each applicant shall be registered or qualified to engage in business as an investment adviser or investment adviser representative in the state of the applicant's principal place of business.

(3) Each registered investment adviser shall maintain registration under the act for at least one investment adviser representative.

(b) Application requirements for investment advisers.

(1) Initial application.

(A) IARD filing requirements. Each applicant for initial registration as an investment adviser shall complete form ADV in accordance with the form instructions and shall file the form, including parts 1 and 2 and all applicable schedules, with the IARD. In addition, the applicant shall submit to the IARD the fee required by K.A.R. 81-14-2 and any reasonable fee charged by FINRA for filing through the IARD system.

(B) Direct filing requirements. Each applicant for initial registration as an investment adviser shall file the following documents with the administrator, unless the documents are filed electronically with the IARD:

(i) The proposed client contract written in accordance with K.A.R. 81-14-5(d)(13);

(ii) a privacy policy written in accordance with K.A.R. 81-14-5(d)(12)(B);

(iii) supervisory procedures written in accordance with K.A.R. 81-14-4(b)(19);

(iv) financial statements that demonstrate compliance with the requirements of K.A.R. 81-14-9(d);

(v) a brochure written in accordance with K.A.R. 81-14-10(b), unless the applicant intends to use part 2 of form ADV as its brochure; and

(vi) any other document related to the applicant's business, if requested by the administrator.

(2) Annual renewal. The application for annual renewal registration as an investment adviser shall be filed with the IARD. The application for annual renewal registration shall include the fee required by K.A.R. 81-14-2 and any reasonable fee charged by FINRA for filing through the IARD system.

(3) Updates and amendments.

(A) Each investment adviser shall file with IARD, in accordance with the instructions in form ADV, any amendments to the investment adviser's form ADV. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

(B) Within 90 days after the end of an investment adviser's fiscal year, the investment adviser shall file with the IARD an annual updating amendment to form ADV.

(c) Application requirements for investment adviser representatives.

(1) Initial application. Each applicant for initial registration as an investment adviser representative under the act shall complete form U-4 in accordance with the form instructions and shall file the form U-4 with the CRD, except as otherwise provided by order of the administrator. The application for initial registration shall include the

(continued)

following items:

(A) Proof of compliance by the investment adviser representative with the examination requirements of subsection (e);

(B) the fee required by K.A.R. 81-14-2; and

(C) any reasonable fee charged by FINRA for filing through the CRD system.

(2) Annual renewal. The application for annual renewal registration as an investment adviser representative shall be filed with the CRD. The application for annual renewal registration shall include the fee required by K.A.R. 81-14-2 and any reasonable fee charged by FINRA for filing through the CRD system.

(3) Updates and amendments. Each investment adviser representative shall be under a continuing obligation to update the information required by form U-4 as changes occur. Each investment adviser representative and any associated investment adviser shall file promptly with the CRD any amendments to the representative's form U-4. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

(d) Effective date of registration.

(1) Initial registration. Each registration shall become effective on the 45th day after the completed application is filed, unless the application is approved earlier by the administrator. However, if the administrator or the administrator's staff has notified the applicant of deficiencies in the application, the application shall not be considered complete until an amendment is filed to resolve the deficiencies.

(2) Transfer of employment or association. If an investment adviser representative terminates employment by or association with an investment adviser registered under the act or a federal covered investment adviser who has filed a notice under K.S.A. 17-12a405, and amendments thereto, and begins employment by or association with another investment adviser registered under the act or a federal covered investment adviser who has filed a notice under K.S.A. 17-12a405, and amendments thereto, and the successor investment adviser or federal covered investment adviser files an application for registration for the investment adviser representative within 30 days after the termination, then the application shall become effective in accordance with K.S.A. 17-12a408(b), and amendments thereto.

(e) Examination requirements.

(1) General requirements. Each individual applying to be registered as an investment adviser or investment adviser representative under the act shall provide the administrator with proof of obtaining a passing score on either of the following:

(A) The series 65 uniform investment adviser law examination; or

(B) the series 7 general securities representative examination and the series 66 uniform combined state law examination.

(2) Requirements for individuals registered on January 1, 2000. An individual who was registered as an investment adviser or investment adviser representative in any jurisdiction in the United States on January 1, 2000, shall not be required to meet the examination requirements

for continued registration, except under either of the following conditions:

(A) If the administrator requires examinations for any individual found to have violated any state or federal securities law; or

(B) if the administrator requires examinations for any individual whose registration has lapsed, as specified in paragraph (e)(3).

(3) Lapsed registration. If an individual has met the examination requirements of paragraph (e)(1) but has not been registered as an agent or investment adviser representative in any jurisdiction for the previous two years, the individual shall be required to comply with the examination requirements of paragraph (e)(1) again before applying for registration.

(4) Waivers. The examination requirement may be waived or modified by the administrator pursuant to K.S.A. 17-12a412(e), and amendments thereto, and the examination requirement shall not apply to any individual who currently holds one of the following professional designations:

(A) Certified financial planner (CFP), awarded by the certified financial planner board of standards, inc.;

(B) chartered financial consultant (ChFC), awarded by the American college, Bryn Mawr, Pennsylvania;

(C) personal financial specialist (PFS), awarded by the American institute of certified public accountants;

(D) chartered financial analyst (CFA), awarded by the institute of chartered financial analysts;

(E) chartered investment counselor (CIC), awarded by the investment counsel association of America, inc.; or

(F) any other professional designation that the administrator may by regulation or order recognize.

(f) Expiration, renewal, withdrawal, and termination.

(1) Each registration shall expire on December 31, and each application for renewal shall be filed not later than the deadline established by the IARD or CRD.

(2) If an investment adviser representative's association with an investment adviser is discontinued or terminated, the investment adviser shall immediately file a form U-5 with the CRD. If the investment adviser representative commences association with another investment adviser, that investment adviser shall file an initial application for registration for the investment adviser representative.

(3) If an investment adviser desires to withdraw from registration or if registration is terminated by the administrator, the investment adviser shall immediately file a form ADV-W with the IARD. The form ADV-W shall be completed in accordance with the instructions to the form.

(4) Termination of an investment adviser's registration for any reason shall automatically constitute cancellation of the registration of each investment adviser representative that is affiliated with the investment adviser.

(5) Each application that has been on file for six months without any action taken by the applicant shall be considered withdrawn. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a406, 17-12a407, 17-12a408, and 17-12a412(e); effective Oct. 26, 2001; amended Aug. 18, 2006; amended Aug. 15, 2008; amended Jan. 4, 2016.)

81-14-5. Dishonest and unethical practices of investment advisers, investment adviser representatives,

and federal covered investment advisers. (a) Unethical conduct. "Dishonest or unethical practices," as used in K.S.A. 17-12a412(d)(13) and amendments thereto, shall include the conduct prohibited in this regulation.

(b) Fraudulent conduct. "An act, practice, or course of business that operates or would operate as a fraud or deceit," as used in K.S.A. 17-12a502(a)(2) and amendments thereto, shall include the conduct prohibited in paragraphs (d)(6), (9), (10), and (11) and subsections (e), (f), (g), and (h).

(c) General standard of conduct. Each person registered as an investment adviser or investment adviser representative under the act shall not fail to observe high standards of commercial honor and just and equitable principles of trade in the conduct of the person's business. An investment adviser or investment adviser representative is a fiduciary and shall act primarily for the benefit of its clients.

(d) Prohibited conduct: sales and business practices. Each person registered as an investment adviser or investment adviser representative under the act shall refrain from the practices specified in this subsection in the conduct of the person's business. For purposes of this subsection, a security shall include any security as defined by K.S.A. 17-12a102, and amendments thereto, including a federal covered security as defined by K.S.A. 17-12a102, and amendments thereto, or section 2 of the securities act of 1933, 15 U.S.C. § 77b, as adopted by reference in K.A.R. 81-2-1.

(1) Unsuitable recommendations. An investment adviser or investment adviser representative shall not recommend to any client to whom investment supervisory, management, or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative.

(2) Improper use of discretionary authority. An investment adviser or investment adviser representative shall not exercise any discretionary power in placing an order for the purchase or sale of securities for any client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power is limited to the price at which and the time when an order shall be executed for a definite amount of a specified security.

(3) Excessive trading. An investment adviser or investment adviser representative shall not induce trading in a client's account that is excessive in size or frequency in light of the financial resources, investment objectives, and character of the account.

(4) Unauthorized trading. An investment adviser or investment adviser representative shall not perform either of the following:

(A) Place an order to purchase or sell a security for the account of a client without authority to do so; or

(B) place an order to purchase or sell a security for the account of a client upon instruction of a third party with-

out first having obtained a written third-party trading authorization from the client.

(5) Borrowing from or loaning to a client. An investment adviser or investment adviser representative shall not perform either of the following:

(A) Borrow money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, or a financial institution engaged in the business of loaning funds; or

(B) loan money to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser.

(6) Misrepresenting qualifications, services, or fees. An investment adviser or investment adviser representative shall not misrepresent to any advisory client or prospective client the qualifications of the investment adviser, investment adviser representative, or any employee of the investment adviser, or misrepresent the nature of the advisory services being offered or fees to be charged for the service. An investment adviser or investment adviser representative shall not omit to state a material fact that is necessary to make any statements made regarding qualifications, services, or fees, in light of the circumstance under which the statements are made, not misleading.

(7) Failure to disclose source of report. An investment adviser or investment adviser representative shall not provide a report or recommendation to any advisory client prepared by someone other than the investment adviser or investment adviser representative without disclosing that fact. This prohibition shall not apply to a situation in which the adviser uses published research reports or statistical analyses to render advice or in which an adviser orders a research report in the normal course of providing service.

(8) Unreasonable fee. An investment adviser or investment adviser representative shall not charge a client an unreasonable advisory fee.

(9) Failure to disclose conflicts of interest. An investment adviser or investment adviser representative shall not fail to disclose to a client, in writing and before any advice is rendered, any material conflict of interest relating to the investment adviser, investment adviser representative, or any of the investment adviser's employees that could reasonably be expected to impair the rendering of unbiased and objective advice, including the following:

(A) Compensation arrangements connected with advisory services to the client that are in addition to compensation from the client for the advisory services; and

(B) charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to the advice will be received by the investment adviser, investment adviser representative, or any of the adviser's employees.

(10) Guaranteeing performance. An investment adviser or investment adviser representative shall not guarantee a client that a specific result will be achieved with advice that is rendered.

(11) Deceptive advertising. An investment adviser or investment adviser representative shall not publish, circulate, or distribute any advertisement that does not

(continued)

comply with SEC rule 206(4)-1, 17 C.F.R. 275.206(4)-1, as adopted by reference in K.A.R. 81-2-1, despite the fact that the adviser may be exempt from federal registration pursuant to section 203(b) of the investment advisers act of 1940, 15 U.S.C. § 80b-3(b) as adopted by reference in K.A.R. 81-2-1.

(12) Failure to protect confidential information.

(A) An investment adviser or investment adviser representative shall not disclose the identity, affairs, or investments of any client unless required by law to do so or unless the client consents to the disclosure.

(B) An investment adviser shall not fail to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information contrary to the provisions of section 204A of the investment advisers act of 1940, 15 U.S.C. § 80b-4a, as adopted by reference in K.A.R. 81-2-1, despite the fact that the adviser may be exempt from federal registration pursuant to section 203(b) of the investment advisers act of 1940, 15 U.S.C. § 80b-3(b), as adopted by reference in K.A.R. 81-2-1.

(13) Improper advisory contract. An investment adviser shall not engage in the following conduct, even though the adviser may be exempt from federal registration pursuant to section 203(b) of the investment advisers act of 1940, 15 U.S.C. § 80b-3(b), as adopted by reference in K.A.R. 81-2-1:

(A) Enter into, extend, or renew any investment advisory contract unless the contract is in writing, discloses the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, and an indication of whether the contract grants discretionary power to the adviser, and contains a provision that no assignment of the contract shall be made by the investment adviser without the consent of the other party to the contract;

(B) enter into, extend, or renew any advisory contract containing performance-based fees contrary to the provisions of section 205 of the investment advisers act of 1940, 15 U.S.C. § 80b-5, as adopted by reference in K.A.R. 81-2-1, except as permitted by SEC rule 205-3, 17 C.F.R. 275.205-3, as adopted by reference in K.A.R. 81-2-1; and

(C) include in an advisory contract any indication of a condition, stipulation, or provision binding a person to waive compliance with any provision of the act or of the investment advisers act of 1940, or engage in any other practice contrary to the provisions of section 215 of the investment advisers act of 1940, 15 U.S.C. § 80b-15, as adopted by reference in K.A.R. 81-2-1.

(14) Indirect misconduct. An investment adviser or investment adviser representative shall not engage in any conduct or any act, indirectly or through or by any other person, that would be unlawful for the person to do directly under the provisions of the act or these regulations.

(e) Prohibited conduct: failure to disclose financial condition and disciplinary history.

(1) Definitions. For purposes of this subsection, the following definitions shall apply:

(A) "Found" means determined or ascertained by adjudication or consent in a final self-regulatory organization proceeding, administrative proceeding, or court action.

(B) "Investment-related" means pertaining to securities, commodities, banking, insurance, or real estate, including acting as or being associated with a broker, dealer, investment company, investment adviser, government securities broker or dealer, municipal securities broker or dealer, bank, savings and loan association, commodities broker or dealer, or fiduciary.

(C) "Involved" means acting or aiding, abetting, causing, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

(D) "Management person" means a person with power to exercise, directly or indirectly, a controlling influence over the management or policies of an investment adviser that is a company or to determine the general investment advice given to clients.

(E) "Self-regulatory organization" means any national securities or commodities exchange, registered association, or registered clearing agency.

(2) An investment adviser registered or required to be registered under the act shall not fail to disclose to any client or prospective client all material facts with respect to either of the following:

(A) A failure to meet the positive net worth requirements of K.A.R. 81-14-9(d); or

(B) any financial condition of the investment adviser or legal or disciplinary event that is material to an evaluation of the investment adviser's integrity or ability to meet contractual commitments to clients.

(3) It shall constitute a rebuttable presumption that the following legal or disciplinary events involving the investment adviser or a management person of the investment adviser are material to an evaluation of the adviser's integrity for a period of 10 years from the date of the event, unless the legal or disciplinary event was resolved in the investment adviser's or management person's favor or was subsequently reversed, suspended, or vacated:

(A) A criminal or civil action in a court of competent jurisdiction resulting in any of the following:

(i) The individual was convicted of a felony or misdemeanor, or is the named subject of a pending criminal proceeding, for a crime involving an investment-related business or fraud, false statements, omissions, wrongful taking of property, bribery, forgery, counterfeiting, extortion, or crimes of a similar nature;

(ii) the individual was found to have been involved in a violation of an investment-related statute or regulation; or

(iii) the individual was the subject of any order, judgment, or decree permanently or temporarily enjoining the person or otherwise limiting the person from engaging in any investment-related activity;

(B) any administrative proceedings before any federal or state regulatory agency resulting in any of the following:

(i) The individual was found to have caused an investment-related business to lose its authorization to do business; or

(ii) the individual was found to have been involved in a violation of an investment-related statute or regulation and was the subject of an order by the agency denying, suspending, or revoking the authorization of the person to act in, or barring or suspending the person's association with, an investment-related business, or otherwise

significantly limiting the person's investment-related activities; and

(C) any self-regulatory organization proceeding resulting in either of the following:

(i) The individual was found to have caused an investment-related business to lose its authorization to do business; or

(ii) the individual was found to have been involved in a violation of the self-regulatory organization's rules and was the subject of an order by the self-regulatory organization barring or suspending the person from association with other members, expelling the person from membership, fining the person more than \$2,500, or otherwise significantly limiting the person's investment-related activities.

(4) The information required to be disclosed by paragraph (e)(2) shall be disclosed to clients before further investment advice is given to the clients. The information shall be disclosed to prospective clients at least 48 hours before entering into any written or oral investment advisory contract, or no later than the time of entering into the contract if the client has the right to terminate the contract without penalty within five business days after entering into the contract.

(5) For purposes of calculating the 10-year period during which events shall be presumed to be material under paragraph (e)(3), the date of a reportable event shall be the date on which the final order, judgment, or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments, or decrees lapsed.

(6) Compliance with this subsection shall not relieve any investment adviser from any other disclosure requirement under any federal or state law.

(f) Prohibited conduct: cash payment for client solicitations. An investment adviser registered or required to be registered under the act shall not pay a cash fee, directly or indirectly, to a solicitor with respect to solicitation activities unless the solicitation arrangement meets all of the requirements of paragraphs (f)(2) through (f)(7).

(1) Definitions. For the purposes of this subsection, the following definitions shall apply:

(A) "Client" shall include any prospective client.

(B) "Impersonal advisory services" means investment advisory services provided solely by means of any of the following:

(i) Written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

(ii) statistical information containing no expression of opinion as to the investment merits of a particular security; or

(iii) any combination of the materials, statements, or information specified in paragraphs (f)(1)(B)(i) and (ii).

(C) "Solicitor" means any person or entity who, for compensation, directly or indirectly solicits any client for, or refers any client to, an investment adviser.

(2) The investment adviser shall be properly registered under the act.

(3) The solicitor shall not be a person who meets any of the following conditions:

(A) Is subject to an order by any regulatory body that censures or places limitations on the person's activities

or that suspends or bars the person from association with an investment adviser;

(B) was convicted within the previous 10 years of any felony or misdemeanor involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, misappropriation of funds or securities, or conspiracy to commit any such act;

(C) has been found to have engaged in the willful violation of any provision of these regulations, the act, the federal securities act of 1933, the federal securities exchange act of 1934, the federal investment company act of 1940, the federal investment advisers act of 1940, the federal commodity exchange act, the federal rules under any of these federal acts, or the rules of the NASD, FINRA, or the municipal securities rulemaking board; or

(D) is subject to an order, judgment, or decree by which the person has been convicted anytime during the preceding 10-year period of any crime that is punishable by imprisonment for one or more years or a substantially equivalent crime by a foreign court of competent jurisdiction.

(4) The cash fee shall be paid pursuant to a written agreement to which the investment adviser is a party.

(5) The cash fee shall be paid to a solicitor only under any of the following circumstances:

(A) The cash fee is paid to the solicitor with respect to solicitation activities for the provision of impersonal advisory services only;

(B) the cash fee is paid to a solicitor who is a partner, officer, director, or employee of the investment adviser, or a partner, officer, director, or employee of a person who controls, is controlled by, or is under common control with the investment adviser, if the status of the solicitor as a partner, officer, director, or employee of the investment adviser or other person, and any affiliation between the investment adviser and the other person, is disclosed to the client at the time of the solicitation or referral; or

(C) the cash fee is paid to a solicitor other than a solicitor specified in paragraph (f)(5)(A) or (B), if all of the following conditions are met:

(i) The written agreement required by paragraph (f)(4) describes the solicitation activities to be engaged in by the solicitor on behalf of the investment adviser and the compensation to be received, contains an undertaking by the solicitor to perform the solicitor's duties under the agreement in a manner consistent with the instructions of the investment adviser and the provisions of the act and the implementing regulations, and requires the solicitor, at the time of any solicitation activities for which compensation is paid or to be paid by the investment adviser, to provide the client with a current copy of the investment adviser's written disclosure statement required under the brochure delivery requirements of K.A.R. 81-14-10(b) and a separate written disclosure document described in paragraph (f)(6).

(ii) The investment adviser receives from the client, before or when entering into any written or oral investment advisory contract with the client, a signed and dated acknowledgment of receipt of the investment adviser's

(continued)

written disclosure statement and the solicitor's written disclosure document.

(iii) The investment adviser makes a bona fide effort to ascertain whether the solicitor has complied with the written agreement required by paragraph (f)(4), and the investment adviser has a reasonable basis for believing that the solicitor has complied with the agreement.

(6) The separate written disclosure document required to be furnished by the solicitor to the client shall contain the following information:

- (A) The name of the solicitor;
- (B) the name of the investment adviser;
- (C) the nature of the relationship, including any affiliation, between the solicitor and the investment adviser;
- (D) a statement that the solicitor will be compensated for the solicitation services by the investment adviser;
- (E) the terms of the compensation arrangement, including a description of the compensation paid or to be paid to the solicitor; and
- (F) the amount in addition to the advisory fee that the client will be charged for the costs of the solicitor's services, and any difference in fees paid by clients if the difference is attributable to the existence of any arrangement in which the investment adviser has agreed to compensate the solicitor for soliciting clients for, or referring clients to, the investment adviser.

(7) Nothing in this subsection shall be deemed to relieve any person of any fiduciary or other obligation to which a person may be subject under any law.

(g) Prohibited conduct: agency cross transactions.

(1) For the purposes of this subsection, "agency cross transaction for an advisory client" shall mean a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with the investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction. Each person acting in this capacity shall be required to be registered as a broker-dealer in this state unless excluded from the definition of broker-dealer under K.S.A. 17-12a102, and amendments thereto.

(2) An investment adviser shall not effect an agency cross transaction for an advisory client unless all of the following conditions are met:

(A) The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for the client.

(B) Before obtaining this written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as broker-dealer for both parties to the transaction, receive commissions from both parties, and have a potentially conflicting division of loyalties and responsibilities.

(C) At or before the completion of each agency cross transaction, the investment adviser sends the client a written confirmation. The written confirmation shall include all of the following information:

- (i) A statement of the nature of the transaction;
- (ii) the date the transaction took place;

(iii) an offer to furnish, upon request, the time when the transaction took place; and

(iv) the source and amount of any other remuneration that the investment adviser received or will receive in connection with the transaction.

For a purchase in which the investment adviser was not participating in a distribution, or a sale in which the investment adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser has received or will receive any other remuneration and that the investment adviser will furnish the source and amount of remuneration to the client upon the client's written request.

(D) At least annually, the investment adviser sends each client a written disclosure statement identifying the total number of agency cross transactions during the period since the date of the last disclosure statement and the total amount of all commissions or other remuneration that the investment adviser received or will receive in connection with agency cross transactions for the client during the period.

(E) Each written disclosure and confirmation required by this subsection includes a conspicuous statement that the client may revoke the written consent required under paragraph (g)(2)(A) at any time by providing written notice to the investment adviser.

(F) No agency cross transaction in which the same investment adviser recommended the transaction to both any seller and any purchaser is effected.

(3) Nothing in this subsection shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interests of the client, including fulfilling fiduciary duties with respect to the best price and execution for the particular transaction for the client, nor shall this subsection relieve any investment adviser or investment adviser representative of any other disclosure obligations imposed by the act or the regulations under the act.

(h) Prohibited conduct: use of senior-specific certifications and professional designations.

(1) An investment adviser or investment adviser representative shall not use a senior-specific certification or designation that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees in any way that misleads any person. This prohibition shall include the following:

(A) The use of a certification or professional designation by a person who has not earned or is otherwise ineligible to use that certification or designation;

(B) the use of a nonexistent or self-conferred certification or professional designation;

(C) the use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(D) the use of a certification or professional designation that was obtained from a designating or certifying organization that meets any of the following conditions:

- (i) Is primarily engaged in the business of instruction in sales or marketing;
- (ii) does not have reasonable standards or procedures

for ensuring the competency of its designees or certificate holders;

(iii) does not have reasonable standards or procedures for monitoring and disciplining its designees or certificate holders for improper or unethical conduct; or

(iv) does not have reasonable continuing education requirements for its designees or certificate holders to maintain the professional designation or certification.

(2) There shall be a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of paragraph (h)(1)(D) if the organization has been accredited by any of the following:

(A) The American national standards institute;

(B) the national commission for certifying agencies; or

(C) an organization that is on the United States department of education's list titled "accrediting agencies recognized for title IV purposes," if the designation or credential does not primarily apply to sales or marketing, or both.

(3) In determining whether a combination of words or an acronym or initialism standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, the factors to be considered shall include the following:

(A) The use of one or more words including "senior," "retirement," "elder," or similar words, combined with one or more words including "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or similar words, in the name of the certification or professional designation; and

(B) the manner in which the words are combined.

(4) For purposes of this subsection, the terms "certification" and "professional designation" shall not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, including an agency that regulates broker-dealers, investment advisers, or investment companies, if that job title indicates seniority or standing within the organization or specifies an individual's area of specialization within the organization.

(i) Applicability to federal covered investment advisers. To the extent permitted by federal law, the provisions of this regulation governing investment advisers shall also apply to federal covered investment advisers. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a412(d)(13) and 17-12a502(a)(2) and (b); effective Oct. 26, 2001; amended Aug. 18, 2006; amended Aug. 15, 2008; amended May 22, 2009; amended Jan. 4, 2016.)

81-14-11. Kansas private adviser exemption. (a) Exemption from registration. An investment adviser shall be exempt from the registration requirements of K.S.A. 17-12a403, and amendments thereto, if both of the following requirements are met:

(1) The investment adviser shall meet each of the following conditions:

(A) Maintain its principal place of business in Kansas;

(B) provide investment advice solely to fewer than 15 clients;

(C) not hold itself out generally to the public as an investment adviser; and

(D) not act as an investment adviser to any investment company registered pursuant to section 8 of the investment company act of 1940, 15 U.S.C. § 80a-8, as adopted by reference in K.A.R. 81-2-1, or a company that has elected and has not withdrawn its election to be a business development company pursuant to section 54 of the investment company act of 1940, 15 U.S.C. § 80a-54, as adopted by reference in K.A.R. 81-2-1.

(2) Neither the investment adviser nor any of its advisory affiliates or associated investment adviser representatives shall be subject to a disqualification provision as described in rule 262 of SEC regulation A, 17 C.F.R. 230.262, as adopted by reference in K.A.R. 81-2-1.

(b) Notice filing. Each investment adviser that qualifies for exemption under subsection (a) shall be subject to or exempt from filing a notice with the administrator as follows:

(1) Notice filing requirement. Each investment adviser that manages assets of no more than \$25 million on December 31 each year shall complete the identifying information required by item 1 of form ADV, part 1A and file the printed form with the administrator on or before February 1 of the following year. No fee shall be required with the notice filing required by this subsection.

(2) Exemption from notice filing requirement.

(A) Each investment adviser that manages assets in excess of \$25 million and is registered with the SEC shall be exempt from the notice filing requirements of K.S.A. 17-12a405, and amendments thereto, and of paragraph (1) of this subsection.

(B) Each investment adviser that manages assets in excess of \$25 million, is an exempt reporting adviser, and files reports with the IARD system pursuant to SEC rule 204-4, 17 C.F.R. 275.204-4, as adopted by reference in K.A.R. 81-2-1, shall be exempt from the notice filing requirements of paragraph (1) of this subsection.

(c) Exemption for investment adviser representatives. An investment adviser representative shall be exempt from the registration requirements of K.S.A. 17-12a404, and amendments thereto, if the individual meets the following requirements:

(1) Is employed by or associated with an investment adviser that meets the exemption requirements under subsection (a);

(2) is not subject to a disqualification as described in rule 262 of SEC regulation A, 17 C.F.R. 230.262; and

(3) does not otherwise act as an investment adviser representative.

(d) Transition. Each investment adviser or investment adviser representative who becomes ineligible for the exemption specified in this regulation shall comply with the registration or notice filing requirements under the act within 90 days after the date of ineligibility. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a403(b)(3), 17-12a404(b)(2), and 17-12a405(b)(3); effective Oct. 25, 2013; amended Jan. 4, 2016.)

Joshua A. Ney
Kansas Securities Commissioner

Doc. No. 044145

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2009 Volumes of the *Kansas Administrative Regulations* and the 2015 Supplement of the *Kansas Administrative Regulations*.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Reg. No.	Action	Register
1-45-22	Amended	V. 34, p. 1227

AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

Reg. No.	Action	Register
5-22-7	Amended	V. 34, p. 513

AGENCY 7: SECRETARY OF STATE

Reg. No.	Action	Register
7-23-14	Amended	V. 34, p. 1032
7-23-15	New	V. 34, p. 1033

AGENCY 14: DEPARTMENT OF REVENUE—DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Reg. No.	Action	Register
14-19-40	New (T)	V. 34, p. 824
14-19-40	New	V. 34, p. 1053
14-20-42	New (T)	V. 34, p. 825
14-20-42	New	V. 34, p. 1054
14-21-23	New (T)	V. 34, p. 825
14-21-23	New	V. 34, p. 1054

AGENCY 16: ATTORNEY GENERAL

Reg. No.	Action	Register
16-14-1 through 16-14-9	New (T)	V. 34, p. 962, 963
16-14-1 through 16-14-9	New	V. 34, p. 1228, 1229

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Reg. No.	Action	Register
28-4-94	New	V. 34, p. 420
28-16-28b	Amended	V. 34, p. 190
28-16-28c	Amended	V. 34, p. 194
28-16-28d	Amended	V. 34, p. 196
28-16-28e	Amended	V. 34, p. 197
28-16-28f	Amended	V. 34, p. 199
28-16-58	Amended	V. 34, p. 200
28-19-274	New	V. 34, p. 1140

AGENCY 40: KANSAS INSURANCE DEPARTMENT

Reg. No.	Action	Register
40-1-28	Amended	V. 34, p. 216
40-1-37	Amended	V. 34, p. 120
40-1-48	Amended	V. 34, p. 120
40-2-20	Amended	V. 34, p. 1202
40-4-29a	Amended	V. 34, p. 996
40-4-37e	Amended	V. 34, p. 120
40-9-118	Amended	V. 34, p. 103
40-9-126	New	V. 34, p. 103

AGENCY 60: BOARD OF NURSING

Reg. No.	Action	Register
60-4-103	Amended	V. 34, p. 260

AGENCY 61: BOARD OF BARBERING

Reg. No.	Action	Register
61-3-7	Amended	V. 34, p. 190
61-3-22	Amended	V. 34, p. 190

AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY

Reg. No.	Action	Register
65-5-6	Amended	V. 34, p. 480
65-5-10	Revoked	V. 34, p. 481
65-5-11	Revoked	V. 34, p. 481
65-5-13	New	V. 34, p. 481

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

Reg. No.	Action	Register
66-14-1	Amended	V. 34, p. 617
66-14-2	Amended	V. 34, p. 617
66-14-3	Amended	V. 34, p. 618
66-14-5	Amended	V. 34, p. 618
66-14-7	Amended	V. 34, p. 618
66-14-10	Amended	V. 34, p. 618
66-14-11	Amended	V. 34, p. 619

AGENCY 68: BOARD OF PHARMACY

Reg. No.	Action	Register
68-2-22	Amended	V. 34, p. 70
68-16-1 through 68-16-9	Revoked	V. 34, p. 70
68-20-10a	Amended	V. 34, p. 70
68-20-31	New (T)	V. 34, p. 103
68-20-31	New	V. 34, p. 480

AGENCY 69: BOARD OF COSMETOLOGY

Reg. No.	Action	Register
69-11-1	Amended	V. 34, p. 996
69-15-1	Amended	V. 34, p. 996
69-15-14	Amended	V. 34, p. 997
69-15-30	Amended	V. 34, p. 998

AGENCY 81: OFFICE OF THE SECURITIES COMMISSIONER

Reg. No.	Action	Register
81-3-2	Amended	V. 34, p. 1052
81-14-2	Amended	V. 34, p. 1052
81-21-1	Revoked	V. 34, p. 1053
81-22-1	Revoked	V. 34, p. 1053
81-22-3	Revoked	V. 34, p. 1053
81-23-3	Revoked	V. 34, p. 1053
81-24-2	Revoked	V. 34, p. 1053
81-24-3	Revoked	V. 34, p. 1053
81-25-4	Revoked	V. 34, p. 1053
81-26-1	Revoked	V. 34, p. 1053
81-26-2	Revoked	V. 34, p. 1053
81-27-1	Revoked	V. 34, p. 1053
81-27-2	Revoked	V. 34, p. 1053
81-29-1	Revoked	V. 34, p. 1053
81-29-2	Revoked	V. 34, p. 1053

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-2-402	Revoked	V. 34, p. 900
82-2-506	Revoked	V. 34, p. 900
82-2-507	Revoked	V. 34, p. 900
82-3-100	Amended	V. 34, p. 900
82-3-106	Amended	V. 34, p. 900
82-3-109	Amended	V. 34, p. 901
82-3-203	Amended	V. 34, p. 902
82-3-207	Amended	V. 34, p. 902
82-3-208	Amended	V. 34, p. 902

82-3-209	Amended	V. 34, p. 902
82-3-304	Amended	V. 34, p. 1100
82-3-312	Amended	V. 34, p. 903

82-3-1100 through 82-3-1120	Revoked	V. 34, p. 903
82-4-3a	Amended (T)	V. 34, p. 373
82-4-3a	Amended	V. 34, p. 846
82-4-3f	Amended	V. 34, p. 515
82-4-3g	Amended	V. 34, p. 518

AGENCY 85: ABSTRACTERS' BOARD OF EXAMINERS

Reg. No.	Action	Register
85-4-1	Amended	V. 34, p. 177
85-7-1	Amended	V. 34, p. 177

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-1-5	Amended	V. 34, p. 1159

AGENCY 88: BOARD OF REGENTS

Reg. No.	Action	Register
88-3-8a	Amended (T)	V. 34, p. 961
88-3-8a	Amended	V. 34, p. 1266
88-3-12	Revoked (T)	V. 34, p. 961
88-3-12	Revoked	V. 34, p. 1267
88-24-2	Amended	V. 34, p. 247
88-26-1 through 88-26-8	Amended	V. 34, p. 247-250
88-26-7	Amended (T)	V. 34, p. 961
88-26-7	Amended	V. 34, p. 1267
88-26-9 through 88-26-16	Revoked	V. 34, p. 250
88-28-6	Amended	V. 34, p. 250
88-29-1	Amended	V. 34, p. 313
88-29-5	Amended	V. 34, p. 314
88-29-6	Amended	V. 34, p. 314
88-29-7	Amended	V. 34, p. 315
88-29-7a	Amended	V. 34, p. 315
88-29-11	Amended	V. 34, p. 315
88-29a-1	Amended	V. 34, p. 316
88-29a-5	Amended	V. 34, p. 318
88-29a-6	Amended	V. 34, p. 318
88-29a-7	Amended	V. 34, p. 318
88-29a-7a	Amended	V. 34, p. 319
88-29b-1	Amended	V. 34, p. 319
88-29b-4	Amended	V. 34, p. 320
88-29b-5	Amended	V. 34, p. 321
88-29b-6	Amended	V. 34, p. 322
88-29b-7	Amended	V. 34, p. 323
88-29b-7a	Amended	V. 34, p. 324

AGENCY 92: DEPARTMENT OF REVENUE

Reg. No.	Action	Register
92-56-1	Amended	V. 34, p. 1140
92-56-2	Amended	V. 34, p. 1141

AGENCY 93: DEPARTMENT OF REVENUE—DIVISION OF PROPERTY VALUATION

Reg. No.	Action	Register
93-9-1	New	V. 34, p. 260

AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES

Reg. No.	Action	Register
105-5-2	Amended	V. 34, p. 1248
105-5-3	Amended	V. 34, p. 1248
105-5-6	Amended	V. 34, p. 1248
105-5-7	Amended	V. 34, p. 1249
105-5-8	Amended	V. 34, p. 1249
105-11-1	Amended	V. 34, p. 1249

AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-2-8	Amended	V. 34, p. 71
109-10-1	Revoked	V. 34, p. 344
109-10-1c	Amended	V. 34, p. 344
109-10-1e	Amended	V. 34, p. 345
109-10-2	Revoked	V. 34, p. 345
109-10-7	Amended	V. 34, p. 345
109-11-3a	Amended	V. 34, p. 345
109-11-4a	Amended	V. 34, p. 346
109-11-6a	Amended	V. 34, p. 346
109-11-10	Revoked	V. 34, p. 347

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 2000 can be found in the Vol. 19, No. 52, December 28, 2000 *Kansas Register*. A list of regulations filed from 2001 through 2003 can be found in the Vol. 22, No. 52, December 25, 2003 *Kansas Register*. A list of regulations filed from 2004 through 2005 can be found in the Vol. 24, No. 52, December 29, 2005 *Kansas Register*. A list of regulations filed from 2006 through 2007 can be found in the Vol. 26, No. 52, December 27, 2007 *Kansas Register*. A list of regulations filed from 2008 through November 2009 can be found in the Vol. 28, No. 53, December 31, 2009 *Kansas Register*. A list of regulations filed from December 1, 2009 through December 21, 2011, can be found in the Vol. 30, No. 52, December 29, 2011 *Kansas Register*. A list of regulations filed from December 22, 2011 through November 6, 2013, can be found in the Vol. 32, No. 52, December 26, 2013 *Kansas Register*. The following regulations were filed after December 15, 2013:

Reg. No.	Action	Register
111-2-62	Amended	V. 34, p. 376
111-2-314	New	V. 33, p. 59
111-2-315	New	V. 33, p. 758
111-2-316	New	V. 33, p. 1101
111-2-317	New	V. 33, p. 1101
111-2-318	New	V. 34, p. 1160
111-2-319	New	V. 34, p. 1160
111-4-3295		
through		
111-4-3305	New	V. 33, p. 35-44
111-4-3306		
through		
111-4-3310	New	V. 33, p. 60-64
111-4-3311		
through		
111-4-3316	New	V. 33, p. 395-397
111-4-3317		
through		
111-4-3325	New	V. 33, p. 646-653
111-4-3326		
through		
111-4-3333	New	V. 33, p. 685-688
111-4-3334	New	V. 33, p. 709
111-4-3335	New	V. 33, p. 710
111-4-3336		
through		
111-4-3340	New	V. 33, p. 732-736
111-4-3341	New	V. 33, p. 758
111-4-3342	New	V. 33, p. 759
111-4-3343	New	V. 33, p. 760
111-4-3344	New	V. 33, p. 887
111-4-3345	New	V. 33, p. 761
111-4-3346		
through		
111-4-3355	New	V. 33, p. 888-898
111-4-3356		
through		
111-4-3362	New	V. 33, p. 998-1003

111-4-3363		
through		
111-4-3368	New	V. 33, p. 1101-1106
111-4-3369	New	V. 33, p. 1195
111-4-3370	New	V. 34, p. 6
111-4-3371	New	V. 34, p. 7
111-4-3372		
through		
111-4-3379	New	V. 34, p. 90-93
111-4-3380		
through		
111-4-3383	New	V. 34, p. 121-123
111-4-3384	New	V. 34, p. 244
111-4-3385		
through		
111-4-3394	New	V. 34, p. 376-383
111-4-3393	Amended	V. 34, p. 546
111-4-3395		
through		
111-4-3398	New	V. 34, p. 547-550
111-4-3399	New	V. 34, p. 849
111-4-3400	New	V. 34, p. 850
111-4-3401	New	V. 34, p. 940
111-4-3402	Amended	V. 34, p. 1073
111-4-3403	New	V. 34, p. 942
111-4-3404	New	V. 34, p. 1074
111-4-3405	New	V. 34, p. 1075
111-4-3406	New	V. 34, p. 1076
111-4-3407	New	V. 34, p. 1160
111-4-3408	New	V. 34, p. 1161
111-4-3409	New	V. 34, p. 1162
111-4-3410	New	V. 34, p. 1262
111-4-3411	New	V. 34, p. 1263
111-4-3412	New	V. 34, p. 1264
111-5-23		
through		
111-5-29	Amended	V. 34, p. 1163-1168
111-5-31	Amended	V. 34, p. 1168
111-5-33	Amended	V. 34, p. 1168
111-5-200	Amended	V. 34, p. 1168
111-5-212a	New	V. 33, p. 688
111-5-213		
through		
111-5-217	New	V. 33, p. 689, 690
111-5-218	New	V. 33, p. 898
111-7-66	Amended	V. 34, p. 383
111-7-261	New	V. 33, p. 654
111-7-262	New	V. 33, p. 898
111-7-263	New	V. 33, p. 1196
111-7-264	Amended	V. 34, p. 384
111-9-199		
through		
111-9-203	New	V. 33, p. 45-47
111-9-204	New	V. 33, p. 690
111-9-205	New	V. 33, p. 691
111-9-206	New	V. 33, p. 737
111-9-207	New	V. 33, p. 737
111-9-208		
through		
111-9-211	New	V. 33, p. 1196-1198
111-9-212	New	V. 34, p. 246
111-9-213	New	V. 34, p. 246
111-9-214	New	V. 34, p. 852
111-9-215	New	V. 34, p. 852
111-15-1	Amended	V. 34, p. 1077
111-15-2	Amended	V. 34, p. 1077
111-15-3	Amended	V. 34, p. 1078
111-15-5	Amended	V. 34, p. 1079
111-15-6	Amended	V. 34, p. 1079
111-15-8	Amended	V. 33, p. 1006
111-15-21	Amended	V. 34, p. 1079
111-17-9	Amended	V. 33, p. 48
111-17-10	Amended	V. 33, p. 48
111-17-12	New	V. 33, p. 65
111-17-13	New	V. 33, p. 403
111-17-14	New	V. 33, p. 738
111-17-15	Amended	V. 33, p. 899
111-17-16	New	V. 33, p. 1007

111-17-17	New	V. 34, p. 93
111-17-18	New	V. 34, p. 619
111-17-19	New	V. 34, p. 853
111-17-20	New	V. 34, p. 854
111-17-21	New	V. 34, p. 1079
111-17-22	New	V. 34, p. 1265
111-301-17	Amended	V. 34, p. 123
111-301-18	Amended	V. 33, p. 900
111-301-19	Amended	V. 34, p. 124
111-301-21	Amended	V. 34, p. 551
111-301-22	Amended	V. 34, p. 551
111-301-24	Amended	V. 34, p. 551
111-301-25	Amended	V. 34, p. 552
111-301-26	Amended	V. 34, p. 552
111-301-28	Amended	V. 34, p. 552
111-301-29	Amended	V. 34, p. 552
111-301-32		
through		
111-301-36	Amended	V. 34, p. 552, 553
111-301-45	New	V. 33, p. 901
111-301-46	Amended	V. 33, p. 1107
111-312-5	Amended	V. 33, p. 763
111-312-7	Amended	V. 33, p. 763
111-401-129	Amended	V. 34, p. 554
111-401-195	Amended	V. 34, p. 96
111-401-196		
through		
111-401-200	New	V. 34, p. 97, 98
111-501-6	Amended	V. 34, p. 556
111-501-101	Amended	V. 33, p. 67

AGENCY 115: DEPARTMENT OF WILDLIFE, PARKS AND TOURISM

Reg. No.	Action	Register
115-1-1	Amended	V. 34, p. 1204
115-2-1	Amended	V. 34, p. 1206
115-4-11	Amended	V. 34, p. 1208
115-4-13	Amended	V. 34, p. 1210
115-7-1	Amended	V. 34, p. 1211
115-7-2	Amended	V. 34, p. 103
115-7-10	Amended	V. 34, p. 1212
115-9-6	Amended	V. 34, p. 104
115-30-1	Amended	V. 34, p. 104

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-7-1	Amended	V. 34, p. 420

AGENCY 123: DEPARTMENT OF CORRECTIONS—DIVISION OF JUVENILE SERVICES

Reg. No.	Action	Register
123-6-105	Amended	V. 34, p. 868
123-6-105a	New	V. 34, p. 868
123-15-107	New	V. 24, p. 1183

AGENCY 127: KANSAS HOUSING RESOURCES CORPORATION

Reg. No.	Action	Register
127-2-2	Amended	V. 34, p. 347

AGENCY 129: DEPARTMENT OF HEALTH AND ENVIRONMENT—DIVISION OF HEALTH CARE FINANCE

Reg. No.	Action	Register
129-5-1	Amended (T)	V. 34, p. 100
129-5-1	Amended	V. 34, p. 340
129-5-10		
through		
129-5-21	New	V. 34, p. 943, 944

AGENCY 132: KANSAS 911 COORDINATING COUNCIL

Reg. No.	Action	Register
132-1-1	New	V. 34, p. 1032

Kansas Register
Secretary of State
1st Floor, Memorial Hall
120 S.W. 10th Ave.
Topeka, KS 66612-1594
