

2023 Kansas Statutes

17-12a411. Postregistration requirements. (a) Financial requirements. Subject to section 15(i) of the securities exchange act of 1934 (15 U.S.C. § 78o(i)) or section 222 of the investment advisers act of 1940 (15 U.S.C. § 80b-18a), a rule adopted or order issued under this act may establish minimum financial requirements for broker-dealers registered or required to be registered under this act and investment advisers registered or required to be registered under this act.

(b) Financial reports. Subject to section 15(i) of the securities exchange act of 1934 (15 U.S.C. § 78o(i)) or section 222(b) of the investment advisers act of 1940 (15 U.S.C. § 80b-18a), a broker-dealer registered or required to be registered under this act and an investment adviser registered or required to be registered under this act shall file such financial reports as are required by a rule adopted or order issued under this act. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) Recordkeeping. Subject to section 15(i) of the securities exchange act of 1934 (15 U.S.C. § 78o(i)) or section 222 of the investment advisers act of 1940 (15 U.S.C. § 80b-18a):

(1) A broker-dealer registered or required to be registered under this act and an investment adviser registered or required to be registered under this act shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this act;

(2) broker-dealer records required to be maintained under paragraph (1) may be maintained in any form of data storage acceptable under section 17(a) of the securities exchange act of 1934 (15 U.S.C. § 78q(a)) if they are readily accessible to the administrator; and

(3) investment adviser records required to be maintained under paragraph (1) may be maintained in any form of data storage required by rule adopted or order issued under this act.

(d) Audits or inspections. The records of every person issuing or guaranteeing any securities subject to the provisions of this act and of every broker-dealer, agent, investment adviser or investment adviser representative registered or required to be registered under this act are subject to such reasonable periodic, special, or other audits or inspections by a representative of the administrator, within or without this state, as the administrator considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The administrator may copy, and remove for audit or inspection copies of, all records the administrator reasonably considers necessary or appropriate to conduct the audit or inspection. The administrator may assess a reasonable charge for conducting an audit or inspection under this subsection.

(e) Custody and discretionary authority bond or insurance. Subject to section 15(i) of the securities exchange act of 1934 (15 U.S.C. § 78o(i)) or section 222 of the investment advisers act of 1940 (15 U.S.C. § 80b-18a), a rule adopted or order issued under this act may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security. The administrator may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this act whose net capital exceeds, or of an investment adviser registered under this act whose minimum financial requirements exceed, the amounts required by rule or order under this act. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in K.S.A. 17-12a509(j)(2), and amendments thereto.

(f) Requirements for custody. Subject to section 15(i) of the securities exchange act of 1934 (15 U.S.C. § 78o(i)) or section 222 of the investment advisers act of 1940 (15 U.S.C. § 80b-18a), an agent may not have custody of funds or securities of a customer

except under the supervision of a broker-dealer and an investment adviser representative may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this act may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of securities or funds of a client.

(g) Investment adviser brochure rule. With respect to an investment adviser registered or required to be registered under this act, a rule adopted or order issued under this act may require that information or other record be furnished or disseminated to clients or prospective clients in this state as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

(h) Continuing education. A rule adopted or order issued under this act may require an individual registered under K.S.A. 17-12a402 or 17-12a404, and amendments thereto, to participate in a continuing education program approved by the securities and exchange commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this act may require continuing education for an individual registered under K.S.A. 17-12a404, and amendments thereto.

History: L. 2004, ch. 154, § 28; L. 2013, ch. 65, § 3; July 1.