

81-3-7. Supervisory, financial reporting, recordkeeping, 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 achieving 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 shall 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 January 4, 2016.)