

## STATE OF KANSAS

### OFFICE OF THE SECURITIES COMMISSIONER

#### NOTICE OF PUBLIC HEARING ON ADMINISTRATIVE REGULATIONS

A public hearing will be conducted at 10:00 a.m., Thursday, September 10, 2015, at the Office of the Securities Commissioner of Kansas, 109 SW 9<sup>th</sup> Street, Suite 600, Topeka, Kansas 66612, to consider amendments to **K.A.R. 81-3-2** and **K.A.R. 81-14-2**, and revocations of **K.A.R. 81-21-1**, **K.A.R. 81-22-1**, **K.A.R. 81-22-3**, **K.A.R. 81-23-3**, **K.A.R. 81-24-2**, **K.A.R. 81-24-3**, **K.A.R. 81-25-4**, **K.A.R. 81-26-1**, **K.A.R. 81-26-2**, **K.A.R. 81-27-1**, **K.A.R. 81-27-2**, **K.A.R. 81-29-1** and **K.A.R. 81-29-2**, on a permanent basis.

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 amendments and revocations of regulations. All interested parties may submit written comments prior to the hearing to the attention of the Commissioner at the address above or by email to [ksc@ksc.ks.gov](mailto:ksc@ksc.ks.gov). All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed amendments and revocations of regulations during the public 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. Following the hearing, all written and oral comments submitted by interested parties will be considered by the Commissioner as a basis for making changes to the proposed amendments and revocations of regulations.

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 to participate in the hearing should be made at least

five working days in advance of the hearing by contacting Nichole Oathout, Legal Assistant, at (785) 296-5266 or the Kansas Relay Center at 1-800-766-3777. Handicapped parking is located on 9<sup>th</sup> Street or Kansas Avenue near the office building, and the hearing room is accessible to individuals with disabilities.

Summaries of the proposed amended and revoked regulations and their economic impacts follow. Copies of the full text of the proposed amended and revoked regulations and the economic impact statements may be obtained by writing to the Office of the Securities Commissioner at the address above or by email to [ksc@ksc.ks.gov](mailto:ksc@ksc.ks.gov).

**Amendments to K.A.R. 81-3-2 and K.A.R. 81-14-2.** These regulations specify registration and notice filing fee rates for broker-dealers, agents, investment advisers, investment adviser representatives and federal covered investment advisers. The proposed amendments to K.A.R. 81-3-2 would increase the annual registration fee for agents from \$55 to \$60, and the proposed amendments to K.A.R. 81-14-2 would increase the annual registration fee for investment adviser representatives from \$55 to \$60. No fee increase is proposed for broker-dealers, investment adviser firms, or federal covered investment advisers. Amendments to these regulations also include technical updates with regard to the authorization for fees to be collected by the CRD and IARD electronic filing systems on behalf of the Securities Commissioner. The \$5 increase in fee rates for agents and investment adviser representatives is estimated to increase revenues of the Office of the Securities Commissioner of Kansas by \$670,000 annually based on total annual filing volumes in recent years for both original and renewal registrations of agents and investment adviser representatives.

**Revocations of regulations under the former Uniform Land Sales Practices Act.** The Uniform Land Sales Practices Act (Kansas Statutes 58-3301 through 58-3323) was repealed, effective July 1, 2014. Therefore, the following remaining regulations that had been authorized by

and implemented provisions of that former act are proposed to be revoked on a permanent basis:

K.A.R. 81-21-1, K.A.R. 81-22-1, K.A.R. 81-22-3, K.A.R. 81-23-3, K.A.R. 81-24-2, K.A.R. 81-24-3, K.A.R. 81-25-4, K.A.R. 81-26-1, K.A.R. 81-26-2, K.A.R. 81-27-1, K.A.R. 81-27-2, K.A.R. 81-29-1 and K.A.R. 81-29-2. No economic impact will result from revocation of the regulations because no persons have been subject to or incurred any costs for compliance with the regulations since the Uniform Land Sales Practices Act was repealed.

**81-3-2. Broker-dealer and agent registration fees.** (a) The fee for initial registration or renewal of the registration of each broker-dealer shall be \$200.

(b) The fee for initial registration or renewal of the registration of each agent shall be ~~\$55~~ \$60.

(c) The CRD shall be authorized to receive and store filings and to collect ~~related~~ the fees specified in this regulation from broker-dealers and agents on behalf of the administrator.

(Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a410; effective, E-82-24, Dec. 9, 1981; effective May 1, 1982; amended, T-87-41, Dec. 8, 1986; amended May 1, 1987; amended, T-81-9-12-88, Sept. 12, 1988; amended Oct. 25, 1988; amended Jan. 15, 1990; amended Oct. 7, 1991; amended Dec. 19, 1997; amended Oct. 26, 2001; amended Aug. 18, 2006; amended Dec. 19, 2008; amended P-\_\_\_\_\_.)

ATTORNEY GENERAL

**JUN 25 2015**

APPROVED BY *SP*

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**MAY 18 2015**

DEPT. OF ADMINISTRATION

**81-14-2. Investment advisers, investment adviser representatives, and federal covered investment advisers; registration fees.** (a) The fee for initial registration or renewal of the registration of an investment adviser shall be \$100.

(b) The fee for initial registration or renewal of the registration of an investment adviser representative shall be ~~\$55~~ \$60.

(c) The fee for an initial notice filing or a renewal notice filing for a federal covered investment adviser shall be \$100.

(d) The IARD and the CRD shall be authorized to receive and store filings and to collect the fees specified in this regulation from investment advisers, investment adviser representatives, and federal covered investment advisers on behalf of the administrator. (Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a410; effective Oct. 26, 2001; amended Aug. 18, 2006; amended Dec. 19, 2008; amended P-\_\_\_\_\_.)

ATTORNEY GENERAL

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**81-21-1.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-77-40, Aug. 12, 1976; amended Feb. 15, 1977; revoked P-\_\_\_\_\_.)

ATTORNEY GENERAL

**JUN 24 2015**

APPROVED BY *sf*

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**MAY 14 2015**

DEPT. OF ADMINISTRATION

**81-22-1.** (Authorized by K.S.A. 58-3310(a); implementing K.S.A. 58-3305; effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; amended July 1, 2011; revoked P-\_\_\_\_\_.)

ATTORNEY GENERAL

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**81-22-3.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

ATTORNEY GENERAL

**JUN 24 2015**

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**81-23-3.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective  
Jan. 1, 1971; revoked P-\_\_\_\_\_.)

ATTORNEY GENERAL

**JUN 24 2015**

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**81-24-2 and 81-24-3.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970;  
effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

ATTORNEY GENERAL

**JUN 24 2015**

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**81-25-4.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked P-\_\_\_\_\_.)

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**81-26-1 and 81-26-2.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970;  
effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

ATTORNEY GENERAL

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**81-27-1.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked P-\_\_\_\_\_.)

**81-27-2.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

ATTORNEY GENERAL

**JUN 24 2015**

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**MAY 14 2015**

DEPT. OF ADMINISTRATION

**81-29-1.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; revoked P-\_\_\_\_\_.)

**81-29-2.** (Authorized by K.S.A. 58-3310(a); effective, E-70-34, July 16, 1970; effective Jan. 1, 1971; revoked P-\_\_\_\_\_.)

ATTORNEY GENERAL

JUN 24 2015

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# OFFICE OF THE SECURITIES COMMISSIONER OF KANSAS

## ECONOMIC IMPACT STATEMENT

### Amendments of K.A.R. 81-3-2 and K.A.R. 81-14-2

#### **Summary of proposed amendments:**

**K.A.R. 81-3-2** specifies the registration fees for broker-dealers and agents of broker-dealers, and **K.A.R. 81-14-2** specifies the registration fees for investment advisers and investment adviser representatives, and the notice filing fees for federal covered investment advisers. The proposed amendments to K.A.R. 81-3-2 would increase the annual registration fee for agents from \$55 to \$60, and the proposed amendments to K.A.R. 81-14-2 would increase the annual registration fee for investment adviser representatives from \$55 to \$60. No fee increase is proposed for investment adviser firms, federal covered investment advisers or broker-dealers. Amendments to these regulations also include technical updates with regard to the authorization for fees to be collected by the CRD and IARD electronic filing systems on behalf of the Securities Commissioner.

#### **Federal mandate considerations and comparison with similar federal law:**

The proposed amendments are not mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program, and the proposed amendments and adoption do not exceed requirements of federal law. Federal law is not applicable for state-registered individuals.

#### **Description of costs and anticipated economic impacts:**

The cost for agents and investment adviser representatives to register and do business in Kansas will increase by \$5 per year. The proposed amended fee rate of \$60 annually is less than the average fee to register with other state securities regulatory agencies based on a survey of rates provided by CRD/IARD (the electronic filing system for registration in all states).

Based on recent volumes of annual filings for agents and investment adviser representatives registered in Kansas, the estimated impact on operations of the Office of the Securities Commissioner is an increase in revenues of \$670,000 annually. A substantial portion of the registration fees are paid by persons located in other states who register in order to conduct securities and investment advisory business in Kansas. The agency estimates that \$44,000 of the increase in revenues above resulting from the proposed \$5 increase in fee rates would be paid by or for 8,800 agents and investment adviser representatives who reside and work in Kansas. Approximately half of the Kansas residents subject to the \$5 per year increase in fees are employed by small employers as defined by K.S.A. 77-415. The impact on small employers would be an additional \$5 per year per employee subject to the registration fees in Kansas, if the fees are paid by the employing broker-dealer or investment adviser firm rather than employees.

No other government agencies would incur costs or benefit directly from the increased fees. An indirect benefit for other Kansas agencies may occur due to the provisions of K.S.A. 17-12a601(a) which authorizes a transfer of funds in excess of \$50,000 in the Securities Act Fee Fund to the State General Fund at the end of each fiscal year.

No adverse economic impact on Kansas clients of agents and investment adviser representatives or on the general public in Kansas is expected as a result of the proposed increases in fee rates.

**Less costly or less intrusive alternatives:**

No less costly or less intrusive alternatives were considered for amendments to K.A.R. 81-3-2 and K.A.R. 81-14-2 because the proposed \$5 increase in fee rates in each regulation was deemed minimal and reasonable in relation to financing needs for operations of the agency.

**Impact on cities, counties, or school districts:**

The regulations have no impact on the revenues, functions, or responsibilities of cities, counties or school districts.

# OFFICE OF THE SECURITIES COMMISSIONER OF KANSAS

## ECONOMIC IMPACT STATEMENT

### Revocations of Regulations under the former Uniform Land Sales Practices Act (Kansas Statutes 58-3301 through 58-3323)

#### **Summary of proposed revocations:**

The Uniform Land Sales Practices Act (Kansas Statutes 58-3301 through 58-3323) was repealed, effective July 1, 2014. Therefore, the remaining regulations that had been authorized by and implemented provisions of that former act are proposed to be revoked on a permanent basis: K.A.R. 81-21-1, K.A.R. 81-22-1, K.A.R. 81-22-3, K.A.R. 81-23-3, K.A.R. 81-24-2, K.A.R. 81-24-3, K.A.R. 81-25-4, K.A.R. 81-26-1, K.A.R. 81-26-2, K.A.R. 81-27-1, K.A.R. 81-27-2, K.A.R. 81-29-1 and K.A.R. 81-29-2.

**Federal mandate considerations and comparison with similar federal law:** The regulations proposed to be revoked were not mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program.

**Description of costs and anticipated economic impacts:** No economic impact will result from revocation of the regulations. No persons have been subject to or incurred any costs for compliance with the regulations since the Uniform Land Sales Practices Act was repealed. No other government agencies are affected or would incur costs or realize benefits as a result of the proposed revocations of regulations. No adverse economic impact on Kansas clients of agents and investment adviser representatives or on the general public in Kansas is expected as a result of the proposed increases in fee rates.

**Less costly or less intrusive alternatives:** This is not applicable because there are no costs or other economic impacts that would result from the proposed revocations of regulations.

**Impact on cities, counties, or school districts:** The proposed revocations of regulations will have no impact on the revenues, functions, or responsibilities of cities, counties or school districts.