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TITLE 710 SECURITIES DIVISION

Proposed Rule LSA Document #05-46

DIGEST

Amends 710 IAC 1-14-6 to remove the requirement that a branch office must be located no more than 40 miles from an office of supervisory jurisdiction and to establish new procedures for regulating these branch offices. Effective 30 days after filing with the secretary of state.

710 IAC 1-14-6

SECTION 1. 710 IAC 1-14-6 IS AMENDED TO READ AS FOLLOWS:

710 IAC 1-14-6 Branch offices

Authority: IC 23-2-1-15

Affected: IC 23-2-1

Sec. 6. (a) Any broker-dealer ~~maintaining its principal that maintains an office or one (1) or more branch offices~~ in Indiana ~~shall must designate one (1) or more of such offices another office to act as offices the office~~ of supervisory jurisdiction ~~for that office~~. Each ~~branch~~ office in Indiana shall be supervised by a person ~~maintaining his principal place of business at an the~~ office of supervisory jurisdiction ~~in Indiana: for that office~~.

(b) The manager of an office of supervisory jurisdiction shall be:

(1) responsible for supervision of the ~~branch~~ offices designated by the broker-dealer; ~~The manager of an office of supervisory jurisdiction shall be and~~

(2) qualified by examination as a broker-dealer under ~~710 IAC 1-14-2: section 2 of this rule~~.

(c) The broker-dealer shall notify the division in writing ~~prior to before~~ the opening, relocation, or closing of a branch office. ~~Such Notice via the central registration depository is sufficient to meet this requirement. The~~ notification shall include the following information:

(1) The address of the branch office.

(2) The anticipated date of opening, relocation, or closing.

(3) The address of the office of supervisory jurisdiction designated for that branch office. ~~and~~

(4) The name of the manager of the office of supervisory jurisdiction.

(d) Every branch office shall be designated as an office of supervisory jurisdiction unless:

(1) no more than two (2) agents are employed at the branch office; and no customer recordkeeping or clearing functions are performed there; or

(2) the branch office is located no more than forty (40) miles from an office of supervisory jurisdiction.

(d) The broker-dealer must implement the following:

(1) The firm must establish and implement procedures and systems for supervision over the activities of agents, employees, and Indiana office operations that are reasonably designed to achieve compliance with applicable state and federal securities laws and regulations.

(2) The firm must provide appropriate initial and periodic refresher training to supervisors, employees, and representatives regarding the firm's procedures and systems.

(3) The firm must provide additional specialized training to supervisors in the procedures and systems referred to in subdivision (1).

(4) The firm must take action to correct misconduct. Misconduct may be indicated by, but is not limited to, the following:

- (A) Activities of unauthorized personnel.**
- (B) Churning.**
- (C) Unauthorized trading.**
- (D) Low level of production by high expenses.**
- (E) Garnishment of wages.**
- (F) Regulatory actions.**
- (G) Prior disciplinary history of one (1) or more customer complaints.**
- (H) Recent customer complaints.**

(5) The firm must have an adequate system to track and monitor the status of customer complaints as required by NASD rules. Compliance with these rules includes, but is not limited to, the following:

- (A) Compliance audits with documentation and corrective action.**
- (B) Prompt review, investigation, and disclosure of customer complaints.**

(6) The firm must establish a policy for disciplinary action.

(7) The firm must designate a properly qualified supervisor for each employee at an office.

(8) The designated supervisor must effectively execute any supervisory duties. To that end, the firm must limit the number of employees that a designated supervisor is responsible for at any time in order to ensure that the supervisor can effectively execute the supervisory duties.

(9) The firm must conduct annual compliance examinations, announced and unannounced, of offices with documentation and corrective action.

(10) The firm must establish and implement procedures and systems for reasonable oversight of supervisors.

(e) When a firm designates an office of supervisory jurisdiction, the office of supervisory jurisdiction shall be responsible for the day to day implementation of subsection (d)(1) through (d)(10).

(f) Every branch office located in Indiana shall be open for inspection and examination by the division. (Securities Division; 710 IAC 1-14-6; filed Mar 24, 1986, 3:27 p.m.: 9 IR 2045, eff Jun 1, 1986; filed May 14, 1987, 2:10 p.m.: 10 IR 2297; readopted filed Aug 17, 2001, 2:20 p.m.: 25 IR 204)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 26, 2005 at 1:00 p.m., at the Indiana Government Center-South, 302 West Washington Street, Room E111, Indianapolis, Indiana the Securities Division will hold a public hearing on a proposed amendment of 710 IAC 1-14-6 to remove the requirement that the branch office of a broker-dealer be located within 40 miles of a supervisory office and to establish new procedures for regulating branch offices.

Although this rule imposes new requirements on the broker-dealer to regulate branches and employees, the net effect of the rule will be a significant reduction in costs to the broker-dealer because of no longer having to maintain a supervisory office within 40 miles of every branch office.

Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E111 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

James Joven, Commissioner
Securities Division
Secretary of State