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Sequence Number: 08-25-16  
Notice ID(s): 2580  
File Date: 8/24/16

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

**Agency/Board/Commission:** Tennessee Department of Commerce and Insurance  
**Division:** Securities Division  
**Contact Person:** Charles S. Herrell, Chief Counsel for Securities Division  
**Address:** 500 James Robertson Parkway, Nashville, Tennessee 37243  
**Phone:** (615) 253-1378  
**Email:** charles.s.herrell@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

**ADA Contact:** Don Coleman  
Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee  
**Address:** 37243  
**Phone:** (615) 741-6500  
**Email:** Don.Coleman@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

**Address 1:** 500 James Robertson Parkway, Nashville, Tennessee 37243  
**Address 2:** Conference Room 8C  
**City:** Nashville  
**Zip:** 37243  
**Hearing Date :** December 7, 2016  
**Hearing Time:** 10:00 AM  CST/CDT  EST/EDT

**Additional Hearing Information:**

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0780-04-03	Industry Regulation

Rule Number	Rule Title
0780-04-03-.01	Registration

Rule 0780-04-03-.01 Registration is amended by replacing paragraph (7) with the following:

(7) Branch Offices.

- (a) Every broker-dealer and investment adviser registered in Tennessee shall notify the Division of the establishment of any branch office in Tennessee, as well as its current address, the name or names of supervisors(s) and persons currently in charge, and the names of all registered individuals currently associated with the branch.
- (b) Such notification of establishment, change in address, or change in identity of any supervisor, person in charge, or associated individual thereof must be filed with the Division through the CRD system or IARD on form BR or through a direct filing of Form BR, whichever is appropriate, within thirty (30) days from the date of establishment or change.

Authority: T.C.A. §§48-1-102, 48-1-109, 48-1-110, 48-1-111, 48-1-112, 48-1-115, 48-1-116, Public Acts of 2001, Chapter 61, §222 of the Investment Advisers Act of 1940, as amended by §304(c) of the National Securities Markets Improvement Act of 1996, 17 C.F.R. §240.15c3-1, 17 C.F.R. §240.15Ca2-2, 17 C.F.R. §240.17a-5, 17 C.F.R. §275.203A-3, and 17 C.F.R. §402.2.

Rule 0780-04-03-.01 Registration is amended by adding the following to paragraph (9) as an appropriately numbered item:

(9) Investment Adviser Representative Registration.

- (l) An individual who is registered as an investment adviser representative in this state is not required to be registered as an investment adviser in this state unless the individual transacts business as an investment adviser from, in, or into this state.

Authority: T.C.A. §§48-1-102, 48-1-109, 48-1-110, 48-1-111, 48-1-112, 48-1-115, 48-1-116, Public Acts of 2001, Chapter 61, §222 of the Investment Advisers Act of 1940, as amended by §304(c) of the National Securities Markets Improvement Act of 1996, 17 C.F.R. §240.15c3-1, 17 C.F.R. §240.15Ca2-2, 17 C.F.R. §240.17a-5, 17 C.F.R. §275.203A-3, and 17 C.F.R. §402.2.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 8/23/16

Signature: [Signature]

Name of Officer: Charles S. Herrell

Title of Officer: Assistant General Counsel for Securities

Subscribed and sworn to before me on: 8/23/16

Notary Public Signature: [Signature]

My commission expires on: 12/6/16



**Department of State Use Only**

Filed with the Department of State on: 8/24/16

Effective on: Not Applicable

[Signature]  
Tre Hargett  
Secretary of State

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## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. §4-5-202(a), all agencies shall conduct a review of whether a proposed rule affects small businesses.

The proposed amendments to Chapter 0780-04-03 of the Tennessee Securities Rules are designed to further the Division's duty to protect investors by adopting a modification to the existing Rules that specifies the definition of a Branch Office where securities business is transacted as well as specifying what does not constitute a Branch Office within the meaning of the Rules.

The proposed amendments will bring the Tennessee Rules on the subject of Branch Offices into line with the U.S. Securities and Exchange Commission (SEC) definition of "branch office" in the securities industry. While enactment of the proposed rules is not mandatory, the proposed rules will bring the Rules of the Tennessee Securities Division into conformity with the SEC definition and Rules adopted by other states.

### **Impact on Local Governments**

These proposed rules will not impact local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The U.S. Securities and Exchange Commission (SEC) has approved a common definition of "branch office" in the securities industry. While enactment of the proposed rules is not mandatory, the proposed rules will bring the Rules of the Tennessee Securities Division into conformity with the SEC definition.

- (B) A citation to and a description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines thereto;

See Exchange Act Release No. 52544 (September 30, 2005) (Order Granting Approval of Proposed Rule Change Relating to Proposed Form BR (Uniform Branch Office Registration form) and Conforming Changes and Technical Revisions to the Form U4 and Form U5); File No. SR-NASD-2005-030) (SEC Approval Order)

- (C) Identification of all persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The securities broker-dealer and investment adviser communities are entities that will be affected by the proposed rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

Not applicable.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

State and local government revenues and expenditures will not be affected by the proposed rules.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge of the rule;

Frank Borger-Gilligan, Assistant Commissioner for Securities.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Charles S. Herrell, Assistant General Counsel for Securities

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

500 James Robertson Parkway, Nashville, TN 37243; (615) 253-1378

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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Sequence Number: 08-26-16  
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File Date: 8/24/16

# Notice of Rulemaking Hearing

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**Agency/Board/Commission:** Department of Commerce and Insurance  
**Division:** Securities  
**Contact Person:** Charles Herrell  
**Address:** 500 James Robertson Parkway, Floor Eight, Nashville TN 37243  
**Phone:** (615) 253-1378  
**Email:** charles.s.herrell@tn.gov

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**ADA Contact:** Don Coleman  
**Address:** Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee  
**Phone:** (615) 741-6600  
**Email:** [Don.Coleman@tn.gov](mailto:Don.Coleman@tn.gov)

**Hearing Location(s)** (for additional locations, copy and paste table)

<b>Address 1:</b>	Davy Crockett Tower
<b>Address 2:</b>	500 James Robertson Parkway, Floor Eight,
<b>City:</b>	Nashville, TN
<b>Zip:</b>	37243
<b>Hearing Date :</b>	December 7, 2016
<b>Hearing Time:</b>	10:00 a.m. CST/CDT

**Additional Hearing Information:**

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0780-04-01	General Administration
Rule Number	Rule Title
0780-04-01-.03	Definitions
0780-04-01-.04	Administration of the Act

## Amendment

0780-04-01-.03 Definitions is amended by adding the following new subparagraphs and renumbering the other subparagraphs accordingly:

- (1) (c) "Branch Office" shall mean any location where one (1) or more agents, as defined in T.C.A. §48-2-109, regularly conduct business on behalf of a broker-dealer or investment adviser, or that is held out as such, excluding the following:
1. Any location that is established solely for customer service and/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, provided that:
    - (i) only one (1) agent or investment adviser representative, or multiple agents or investment adviser representatives who reside at that location and are members of the same immediate family, conduct business at that location;
    - (ii) 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;
    - (iii) neither customer funds nor securities are handled at that location;
    - (iv) the agent or investment adviser representative is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, advertisements, and other communications to the public by such agent or investment adviser representative;
    - (v) 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;
    - (vi) electronic communications (e.g., e-mail) are made through the electronic system of the broker-dealer or investment adviser;
    - (vii) all orders for securities are entered through the designated branch office or an electronic system established by a broker-dealer that is reviewable at the branch office;
    - (viii) written supervisory procedures pertaining to supervision of activities conducted at the residence are maintained by the broker-dealer or investment adviser; and
    - (ix) a list of the residence locations are 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 thirty (30) business days in any one (1) calendar year, provided the broker-dealer or investment adviser complies with the provisions of subparts (2)(ii) through (2)(ix) above;

4. Any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, which 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 agent(s) or investment adviser representative(s) effects no more than twenty-five (25) securities transactions in any one (1) calendar year; provided that any advertisement or sales literature identifying such location also sets forth the address and telephone number of the location from which the agent(s) or investment adviser representative(s) 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;
7. A temporary location established in response to the implementation of a business continuity plan; and
8. The principal office and place of business of an investment adviser that is registered with the Division pursuant to T.C.A. §48-2-109(c).

Authority: T.C.A. §§48-1-103(b)(10), 48-1-115, 48-1-116, and Public Acts of 2001, Chapter 61.

0780-04-01-.04 Administration of the Act is amended by replacing subdivisions (4)(a)16. and (4)(a)17. with the following and by adding the following as (4)(a)18.:

(4) (a)

16. "IN-1460", Form for Accredited Investors Notice Filing;
17. "IN-1461", Form for Employee Stock Option/Purchase Plan Notice Filing; and
18. "Form BR", Uniform Branch Office Form.

Authority: T.C.A. §§48-1-103(b)(11), 48-1-104, 48-1-107(b), 48-1-108, 48-1-109, 48-1-110, 48-1-111, 48-1-112, 48-1-115, 48-1-116, 48-1-117, 48-1-118, 48-1-121, 48-1-125, 4-5-105, 10-7-503(a)(2)(A-B), Public Acts of 1997, Chapter 164, §8, and Public Acts of 2001, Chapter 61.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 8/23/16

Signature: [Handwritten Signature]

Name of Officer: Charles S. Herrell

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 8/23/16

Notary Public Signature: [Handwritten Signature]

My commission expires on: 12/6/16



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Filed with the Department of State on: 8/24/16

[Handwritten Signature]  
Tre Hargett  
Secretary of State

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