

292.430 Consent to service of process.

- (1) Every applicant for registration as a broker-dealer, agent, investment adviser, or investment adviser representative under this chapter and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the common law sense shall file with the commissioner, in such form as the commissioner by rule prescribes, an irrevocable consent appointing the commissioner or the commissioner's successor in office to be the applicant's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless:
 - (a) The plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his or her last address on file with the commissioner; and
 - (b) The plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.
- (2) Every issuer of a covered security and every covered adviser who makes a notice filing with Kentucky under this chapter shall file with the commissioner, in the form as prescribed by administrative regulation, an irrevocable consent appointing the commissioner or the commissioner's successor in office to be his or her attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or her or his or her successor, executor, or administrator that arises under this chapter or under any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed a consent in connection with a previous notice filing need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless:
 - (a) The plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by the commissioner, sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his or her last address on file with the commissioner; and
 - (b) The plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within the time as the court allows.
- (3) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order hereunder, and the person has not filed a consent to service of process under subsection (1) or (2) of this section and personal jurisdiction over him or her cannot

otherwise be obtained in this state, that conduct shall be considered equivalent to his or her appointment of the commissioner or the commissioner's successor in office to be the person's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against the person or the person's successor executor or administrator which grows out of that conduct and which is brought under this chapter or any rule or order hereunder, with the same force and validity as if served on the person personally. Service may be made by leaving a copy of the process in the office of the commissioner, and it is not effective unless:

- (a) The plaintiff, who may be the commissioner, in a suit, action, or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his or her last known address or takes other steps which are reasonably calculated to give actual notice; and
- (b) The plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 872, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 20, sec. 16, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 165, sec. 15, effective July 15, 1994. -- Amended 1974 Ky. Acts ch. 315, sec. 49. -- Amended 1972 Ky. Acts ch. 265, sec. 13. -- Created 1960 Ky. Acts ch. 110, sec. 12, effective January 1, 1961.