



KANSAS

OFFICE OF THE SECURITIES COMMISSIONER

KATHLEEN SEBELIUS, GOVERNOR
CHRIS BIGGS, COMMISSIONER

November 9, 2007

Christine A. Bruenn, Esq.
Bingham McCutchen LLP
Suite 300
85 Exchange Street
Portland, Maine 04101-5045

RE: Interpretive Opinion No. 08-003
Merrill Lynch Client Transition Program
File No. 2008X0000002

Synopsis: A retiree is not required to maintain registration as an agent under the Kansas Uniform Securities Act when the person participates in a retirement program that is operated in accordance with FINRA Conduct Rule IM-2420-2.

Dear Ms. Bruenn:

In your letter dated August 7, 2007, you request confirmation that our agency will not require retired or departing Merrill Lynch financial advisors to maintain registration as agents under the Kansas Uniform Securities Act if the financial advisors continue to receive compensation under a proposed Merrill Lynch Client Transition Program. You note that a similar position was taken by this agency under the prior Kansas Securities Act in an Interpretive Opinion dated May 27, 1998.

I incorporate by reference the facts presented in your letter. In short, Merrill Lynch has a program for financial advisors leaving the industry that allows them to receive a declining percentage of compensation related to their former clients. Merrill Lynch designed the program to comply with FINRA (formerly NASD) Rule IM-2420-2. Under the program, a former financial advisor cannot solicit or conduct any securities related business. In addition, Merrill Lynch will terminate payments to any participant who is convicted of a crime or engages in other activity that would make the person statutorily ineligible for registration.

Based on the facts as stated in your letter, it is the position of staff for the Office of the Kansas Securities Commissioner that a participant in the proposed retirement plan would no longer be an "agent" as defined in K.S.A. 17-12a102(2) because the participant is no longer

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effecting or attempting to effect purchases or sales of securities. Therefore, staff will recommend no enforcement action against the firm if it pays compensation under the proposed plan to retirees that are no longer registered as agents in Kansas, provided that the retirement plan continues to be operated in accordance with FINRA Conduct Rule IM-2420-2.

Please note that any variance from the facts expressed in your letter could result in a different conclusion. This opinion is intended solely as an expression of enforcement policy, and its legal conclusions are not binding on any court, legal tribunal, or any other person.

Sincerely,

A black rectangular redaction box covering the signature of Rick A. Fleming.

Rick A. Fleming
General Counsel