

## **SAFE HARBOR FOR DESIGNATED AGENCY**

The Commission recognizes the difficulties that brokerage firms will face when changing to a designated agency model from a traditional brokerage model. The Commission also does not want to discourage firms from making the transition for fear of regulatory or licensing related issues. To that end, the Commission provides the following guidance for firms making the transition to designated agency.

Brokerage firms should adopt reasonable policies providing, but not limited to, the following:

- A method to assess which licensees have actual knowledge of confidential information of existing clients.
- A method to either isolate or appoint all such agents as Designated Agents.
- A method to protect such confidential information from subsequent use by other than the Designated Agents.
- A form for existing clients to opt into Designated Agency with an explanation of the key elements of Designated Agency.

While the Commission cannot guarantee the results or response to any licensing complaint and will not agree in advance not to pursue any investigation or enforcement action as it deems appropriate, the Commission does recommend the policy guidelines set forth above as appropriate steps to protect the public during the transition to designated agency and will consider such efforts as substantial mitigating factors if a licensing complaint or investigation is commenced relative to the transition to designated agency.