GUIDANCE DOCUMENT

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.
NEBRASKA DEPARTMENT OF BANKING AND FINANCE
BUREAU OF SECURITIES

INTERPRETATIVE OPINION No. 15: – DETERMINING THE NUMBER OF CLIENTS OF AN INVESTMENT ADVISER

This Interpretative Opinion discusses the method for determining whether a person qualifies as a client of an investment adviser or federal covered adviser for purposes of the Securities Act of Nebraska and the rules and regulations promulgated thereunder.

Section 8-1101(7)(g)(ii) excludes from the definition of an investment adviser, a person who has no place of business in Nebraska, if during the preceding twelve-month period, such person had five or fewer clients who are residents of Nebraska other than other investment advisers, federal covered advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers.


The antifraud provisions of Section 8-1102(2) of the Act, and the rules adopted by the Department thereunder, apply to any person providing investment advice for compensation, whether or not the person is required to be registered with the Department as an investment adviser. The antifraud provisions apply even if the person rendering the investment advice is exempt from registration or excluded from the definition of investment adviser.

Questions regarding this opinion should be addressed to:

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