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.
This Interpretative Opinion discusses the applicability of the Securities Act of Nebraska ("Act") to persons who provide investment advice as a component of other financial services ("financial planners").

Section 8-1101(7) of the Act defines "investment adviser" as: "any person who for compensation engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who for compensation and as a part of a regular business issues or promulgates analyses or reports concerning securities." The term "investment adviser" also includes "financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation."


A person who is an investment adviser within the meaning of 8-1101(7) of the Act, and is not excluded from the definition based on the exclusions in 8-1101(7), must register with the Department as an investment adviser. Title 48 of the Nebraska Administrative Code, Chapter 7 specifies the requirements for registering as an investment adviser in Nebraska.

A person providing financial planning, pension consulting, or other financial advisory services who is registered with the Securities and Exchange Commission under section 203 of the Investment Advisers Act of 1940 and who has clients in Nebraska, other than other investment advisers, federal covered advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, must make a notice filing, as provided in Title 48, Nebraska Administrative Code, Chapter 8.

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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