

**NEBRASKA DEPARTMENT OF BANKING AND FINANCE
BUREAU OF SECURITIES**

**INTERPRETATIVE OPINION NO. 16: – APPLICABILITY OF THE SECURITIES ACT OF
NEBRASKA TO PERSONS WHO PROVIDE INVESTMENT ADVISORY SERVICES
AS A COMPONENT OF OTHER FINANCIAL SERVICES**

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.”

The Department utilizes the Securities and Exchange Commission’s Investment Advisers Act of 1940, Release No. IA-1092, Applicability of the Investment Advisers Act to Financial Planners, Pension Consultants, and Other Persons Who Provide Investment Advisory Services as a Component of Other Financial Services, issued October 8, 1987, in determining the application of the Act to financial planners and other persons. A copy of Release No. IA-1092 is attached hereto and incorporated herein by reference.

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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