

AMENDATORY SECTION (Amending WSR 01-16-125, filed 7/31/01, effective 10/24/01)

WAC 460-24A-020 Investment adviser representatives employed by federal covered advisers. An individual employed by or associated with a federal covered adviser is an "investment adviser representative," pursuant to RCW 21.20.005(~~((14))~~), if the representative has a "place of business" in this state, as that term is defined under section 203A of the Investment Advisers Act of 1940, and:

(1) Is an "investment adviser representative" pursuant to the Investment Advisers Act of 1940; or

(2) Solicits, offers, or negotiates for the sale of or sells investment advisory services on behalf of a federal covered adviser, but is not a "supervised person" as that term is defined under the Investment Advisers Act of 1940.

AMENDATORY SECTION (Amending WSR 97-16-050, filed 7/31/97, effective 8/31/97)

WAC 460-24A-045 Holding out as a financial planner. A person using a term deemed similar to "financial planner" or "investment counselor" under WAC 460-24A-040(2) will not be considered to be holding himself out as a financial planner for purposes of RCW 21.20.005(~~((6))~~) and 21.20.040 under the following circumstances:

(1) The person is not in the business of providing advice relating to the purchase or sale of securities, and would not, but for his use of such a term, be an investment adviser required to register pursuant to RCW 21.20.040; and

(2) The person does not directly or indirectly receive a fee for providing investment advice. Receipt of any portion of a "wrap fee," that is, a fee for some combination of brokerage and investment advisory services, constitutes receipt of a fee for providing investment advice for the purpose of this section; and

(3) The person delivers to every customer, at least forty-eight hours before accepting any compensation, including commissions from the sale of any investment product, a written disclosure including the following information:

(a) The person is not registered as an investment adviser or investment adviser salesperson in the state of Washington;

(b) The person is not authorized to provide financial planning or investment advisory services and does not provide such services; and

(c) A brief description the person's business which description should include a statement of the kind of products offered or services provided (e.g., the person is in the business of selling securities and insurance products) and of the basis on which the person is compensated for the products sold or services provided; and

(4) The person has each customer to whom a disclosure described in subsection (3) of this section is given sign a written dated acknowledgment of receipt of the disclosure; and

(5) The person shall retain the executed acknowledgments of receipt required by subsection (4) of this section and of the disclosure given for so long as the person continues to receive compensation from such customers, but in no case for less than three years from date of execution of the acknowledgment;

(6) If the person received compensation from the customer on more than one occasion, the person need give the customer the disclosure described in subsection (3) of this section only on the first occasion unless the information in the disclosure becomes inaccurate, in which case the person must give the customer updated disclosure before receiving further compensation from the customer.