

§16403. Investment adviser licensing requirement and exemptions

1. Licensing requirement. It is unlawful for a person to transact business in this State as an investment adviser unless the person is licensed under this chapter as an investment adviser or is exempt from licensing as an investment adviser under subsection 2.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

2. Exemptions from licensing. The following persons are exempt from the licensing requirement of subsection 1:

A. A person without a place of business in this State that is registered or licensed under the securities act of the state in which the person has its principal place of business if its only clients in this State are:

(1) Federal covered investment advisers, investment advisers licensed under this chapter or broker-dealers licensed under this chapter;

(2) Institutional investors;

(3) Bona fide preexisting clients whose principal places of residence are not in this State if the investment adviser is registered or licensed under the securities act of the state in which the clients maintain principal places of residence; or

(4) Any other client exempted by rule adopted or order issued under this chapter; [PL 2005, c. 65, Pt. A, §2 (NEW).]

B. A person without a place of business in this State if the person has had, during the preceding 12 months, not more than 5 clients that are resident in this State in addition to those specified under paragraph A; or [PL 2005, c. 65, Pt. A, §2 (NEW).]

C. Any other person exempted by rule adopted or order issued under this chapter. [PL 2005, c. 65, Pt. A, §2 (NEW).]

[PL 2005, c. 65, Pt. A, §2 (NEW).]

3. Limits on employment or association. It is unlawful for an investment adviser, directly or indirectly, to employ or associate with an individual to engage in an activity related to investment advice in this State if the license of the individual is suspended or revoked or the individual is barred from employment or association with an investment adviser, federal covered investment adviser or broker-dealer by an order under this chapter, the Securities and Exchange Commission or a self-regulatory organization, unless the investment adviser sustains the burden of proof that the investment adviser did not know, and in the exercise of reasonable care could not have known, of the suspension, revocation or bar. Upon request from the investment adviser and for good cause, the administrator, by order, may waive, in whole or in part, the application of the prohibitions of this subsection to the investment adviser.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

4. Investment adviser representative licensing required. It is unlawful for an investment adviser to employ or associate with an individual required to be licensed under this chapter as an investment adviser representative who transacts business in this State on behalf of the investment adviser unless the individual is licensed under section 16404, subsection 1 or is exempt from licensing under section 16404, subsection 2.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

5. Rulemaking. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 65, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 65, §A2 (NEW).

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