

securities commissioner shall make, amend, and rescind rules in order to effectuate such policy. Nothing in this section shall limit the powers or actions of the securities commissioner to make, amend, and rescind rules with regard to exemptions provided by sections 11-51-307 and 11-51-308 or added by section 11-51-309 but not contained in the federal "Securities Act of 1933" or rules and regulations thereunder.

Source: L. 90: Entire article R&RE, p. 720, § 1, effective July 1.

Editor's note: This section is similar to former § 11-51-113 as it existed prior to 1990.

Cross references: For the "Securities Act of 1933", see Pub.L. 73-22, codified at 15 U.S.C. sec. 77a et seq.

PART 4

LICENSING AND REGULATION OF BROKER-DEALERS AND SALES REPRESENTATIVES

11-51-401. Licensing and notice filing requirements. (1) A person shall not transact business in this state as a broker-dealer or sales representative unless licensed or exempt from licensing under section 11-51-402.

(1.5) A person with a place of business in this state shall not transact business in this state as an investment adviser or investment adviser representative unless such person is licensed as such or exempt from licensing under section 11-51-402.

(1.6) A federal covered adviser either with a place of business in this state or who employs or otherwise engages an individual with a place of business in this state to act as an investment adviser representative shall not transact business in this state as a federal covered adviser unless such adviser has filed with the securities commissioner the notice and fee required in sections 11-51-403 and 11-51-404.

(2) Neither a broker-dealer nor an issuer shall employ or otherwise engage an individual to act as a sales representative in this state unless the sales representative is licensed or exempt from licensing under section 11-51-402.

(2.5) An investment adviser shall not employ or otherwise engage any individual with a place of business in this state to act as an investment adviser representative in this state unless such individual is licensed in accordance with section 11-51-403 or is exempt from licensing under section 11-51-402 (1).

(3) No broker-dealer, investment adviser, or issuer shall employ or otherwise engage a person to participate in any activity in this state contrary to an order by the securities commissioner applicable to that person under section 11-51-410. A broker-dealer, investment adviser, or issuer does not violate this subsection (3) if the broker-dealer, investment adviser, or issuer sustains the burden of proof that it did not know and in the exercise of reasonable care could not have known of the order. Upon request from a broker-dealer, investment adviser, or

issuer and for good cause shown, the securities commissioner may waive the prohibition of this subsection (3) with respect to a person subject to an order under section 11-51-410.

(4) No person shall act as an investment adviser for a local government investment pool trust fund under article 75 of title 24, C.R.S., unless the person has first notified the securities commissioner by filing the form prescribed by the securities commissioner.

Source: L. 90: Entire article R&RE, p. 720, § 1, effective July 1. **L. 98:** (1.5), (1.6), (2.5), and (4) added and (3) amended, p. 550, § 4, effective January 1, 1999.

Editor's note: This section is similar to former § 11-51-105 as it existed prior to 1990.

Cross references: For provisions concerning the use of the term "transacting business in this state" in subsections (1.5), (1.6), and (2.5) of this section, see § 11-51-102 (8); for the applicability of subsections (1) and (2), see § 11-51-102 (1) and (2).

11-51-402. Exempt broker-dealers, sales representatives - sanctions - exempt investment advisers and investment adviser representatives. (1) The following broker-dealers are exempt from the license requirement of section 11-51-401 (1):

(a) A broker-dealer who is registered as a broker-dealer under the federal "Securities Exchange Act of 1934" and has no place of business in this state if the business transacted in this state as a broker-dealer is exclusively with the following:

- (I) Issuers in transactions involving their own securities;
- (II) Other broker-dealers licensed or exempt from licensing under this article, except when the broker-dealer is acting as a clearing broker-dealer for such other broker-dealers;
- (III) Financial or institutional investors;
- (IV) Individuals who are existing customers of the broker-dealer and whose principal places of residence are not in this state;
- (V) During any twelve consecutive months, not more than five persons in this state, excluding persons described in subparagraphs (I) to (IV) of this paragraph (a);

(b) Other broker-dealers the securities commissioner by rule or order exempts; and

(c) An online intermediary operating pursuant to section 11-51-308.5.

(2) The following sales representatives are exempt from the license requirement of section 11-51-401 (1):

(a) A sales representative employed or otherwise engaged by a broker-dealer exempt under subsection (1) of this section;

(b) A sales representative employed or otherwise engaged by an issuer in effecting transactions only in securities exempted by section 11-51-307 (1)(a) to (1)(d) or (1)(j);

(c) A sales representative employed by an issuer in effecting transactions only with employees, partners, officers, or directors of the issuer or of a parent or subsidiaries of the issuer, if no commission or other similar compensation is paid or given directly or indirectly to the sales representative for soliciting an employee, partner, officer, or director in this state; and

(d) Other sales representatives the securities commissioner by rule or order exempts.