

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.

(3) Any real estate broker or salesman licensed pursuant to part 1 of article 61 of title 12, C.R.S., who is trading only in securities comprised of notes, bonds, or evidences of indebtedness secured by mortgages or deeds of trust upon real estate, where the broker or salesman acts as the agent for the buyer or seller of the real estate securing the note, bond, or evidence of indebtedness being traded and is neither the issuer nor affiliated with or under the direct or indirect control of the issuer or an affiliate of the issuer of the note, bond, or evidence of indebtedness, is exempt from the license requirement of section 11-51-401 (1).

(4) (a) The securities commissioner may by order revoke, suspend, or impose conditions upon exemptions available pursuant to subparagraph (III) of paragraph (a) of subsection (1) of this section and paragraph (a) of subsection (2) of this section if the securities commissioner finds that a broker-dealer or sales representative who has an exemption pursuant to either of said sections offered or sold, other than in an unsolicited transaction, to a public entity in the state of Colorado a financial instrument that such broker-dealer or sales representative knew or should have known does not qualify for sale to the public entity pursuant to section 24-75-601.1, C.R.S., and that such action by the securities commissioner is in the public interest.

(b) Any proceeding concerning an order made pursuant to this subsection (4) shall be conducted as a proceeding under section 11-51-606 (1), (2), (4), and (5).

(5) The following investment advisers with no place of business in this state are exempt from the license requirement of section 11-51-401 (1.5):

(a) An investment adviser who:

(I) Is exempt from registration as an investment adviser pursuant to section 203 (b) of the federal "Investment Advisers Act of 1940";

(II) Has only clients in this state that are: Other investment advisers; federal covered advisers; broker-dealers; depository institutions; insurance companies; employee benefit plans with assets of not less than one million dollars; or other institutional investors other than any local government investment pool trust fund under article 75 of title 24, C.R.S., as are designated by rule or order of the securities commissioner; or

(III) During the preceding twelve-month period, has had not more than five clients other than those specified in subparagraph (II) of this paragraph (a).

(b) The commissioner may by rule or order exempt other investment advisers from the license requirement of section 11-51-401 (1.5).

(6) Investment adviser representatives employed by or otherwise associated with an investment adviser exempt under subsection (5) of this section are exempt from the license requirement of section 11-51-401 (1.5).

Source: L. 90: Entire article R&RE, p. 721, § 1, effective July 1. L. 95: (4) added, p. 773, § 2, effective May 24. L. 98: (5) and (6) added, p. 550, § 5, effective January 1, 1999. L. 99: (6) amended, p. 619, §10, effective August 4. L. 2003: (3) amended, p. 1988, § 23, effective May 22. L. 2015: IP(1), (1)(a)(V), and (1)(b) amended and (1)(c) added, (HB 15-1246), ch. 98, p. 287, § 3, effective August 5.

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

Cross references: For the "Securities Exchange Act of 1934", see Pub.L. 73-291, codified at 15 U.S.C. sec. 78a et seq.; for the "Investment Advisers Act of 1940", see Pub.L. 76-768, 54 Stat. 847 (1940).

11-51-403. Application for license - notice filing requirements. (1) An applicant for a license as a broker-dealer, sales representative, investment adviser, or investment adviser representative shall file with the securities commissioner or with the securities commissioner's designee an application for a license and the consent to service of process required by section 11-51-706. The application shall contain the information and be in the form the securities commissioner requires by rule. If the information contained in an application is inaccurate or incomplete in any material respect when the application is filed or becomes inaccurate or incomplete in any material respect as a result of any subsequent event, the applicant shall promptly file an amendment to the application to cure the inaccuracy or omission. The securities commissioner may require an applicant to submit additional information that is material to an understanding of information about the applicant available to the securities commissioner in the application or otherwise, and an application shall be incomplete until all additional information required by the securities commissioner has been submitted.

(2) The application requirement of subsection (1) of this section for broker-dealers and sales representatives is satisfied by an applicant who has filed and maintains complete and current registration information with the securities and exchange commission, in the case of a broker-dealer, or a self-regulatory organization, in the case of a sales representative, if that registration information and the consent to service of process required by section 11-51-706 are provided to the securities commissioner through the central registration depository. Any additional information the securities commissioner may require from such an applicant pursuant to subsection (1) of this section must be material to an understanding of information about the broker-dealer or sales representative that is provided to the securities commissioner through the central registration depository.

(2.5) The application requirement of subsection (1) of this section for an investment adviser and an investment adviser representative is satisfied by an applicant who has filed and maintains complete and current registration information with the investment adviser registration depository if that registration information and the consent to service of process required by section 11-51-706 are provided to the securities commissioner through the investment adviser registration depository. Any additional information the securities commissioner may require from such an applicant pursuant to subsection (1) of this section must be material to an understanding of information about the investment adviser or investment adviser representative that is provided to the securities commissioner through the investment adviser registration depository.

(3) (a) A federal covered adviser who, during any calendar year, either has a place of business in this state or employs or engages an investment adviser representative with a place of business in this state shall file with the securities commissioner annually a consent to service of