

(ii) 1. Provides or offers to provide, directly or indirectly, financial and investment counseling or advice, on a group or individual basis;

2. Gathers information relating to investments, establishes financial goals and objectives, processes and analyzes the information gathered, and recommends a financial plan; or

3. Holds [himself] out as an investment adviser in any way, including indicating by advertisement, card, or letterhead, or in any other manner indicates that [he] THE PERSON is, a financial or investment "planner", "counselor", "consultant", or any other similar type of adviser or consultant.

(2) "Investment adviser" does not include:

(i) An investment adviser representative;

(ii) A bank, savings institution, or trust company;

(iii) A lawyer, certified public accountant, engineer, insurance agent or broker, or teacher whose performance of investment advisory services is solely incidental to the practice of [his] THE profession, provided that the performance of such services is not solely incidental unless:

1. The investment advisory services rendered are connected with and reasonably related to the other professional services rendered;

2. The fee charged for the investment advisory services is based on the same factors as those used to determine the fee for other professional services; and

3. The lawyer, certified public accountant, engineer, insurance agent or broker, or teacher does not hold out as an investment adviser;

(iv) A broker-dealer or its agent whose performance of these services is solely incidental to the conduct of [his] business as a broker-dealer and who receives no special compensation for them;

(v) A publisher of any bona fide newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client; [or]

(VI) A FEDERAL COVERED ADVISER; OR

[(vi)] (VII) Any other person not within the intent of this subsection as the Commissioner by rule or order designates.

(i) (1) "Investment adviser representative" or "representative" means any partner, officer, director of (or a person occupying a similar status or performing similar functions) or other individual WHO IS employed by or associated with an investment [adviser, except clerical or ministerial personnel,] ADVISER OR WHO HAS A PLACE OF BUSINESS LOCATED IN THIS STATE AND IS EMPLOYED BY OR ASSOCIATED WITH A FEDERAL COVERED ADVISER, AND who: