

Career Employer

Series 63 Cheat Sheet

REGULATION OF PERSONS

In each state, the **administrator** is responsible for administering the Uniform Securities Act (USA).

Individuals, corporations, partnerships, and governments are all included in the USA's definition of a person.

A **person** is described as someone who is not deceased, is not a minor, or has not been declared mentally incompetent.

When talking of institutional investors, the USA includes banks, savings institutions, trust companies, insurance companies, investment companies as per the Investment Company Act of 1940 definition, as well as Employee Benefit Plans with \$1 million or more in assets (such as profit-sharing trusts, or pension trusts).

From time to time, it is as retail clients that individuals can be referred to.

Anybody that issues a security or proposes to issue them, is termed an **issuer**.

An **offer to sell** or **offer** is all attempts to dispose of, or solicitation of an offer to buy that's related to a security, or interest in one for value.

Every sale or disposition of a security or interest in a security for value is considered a **sale**.

Any of the 50 states, or territories of the United States (for example, Puerto Rico) is referred to as a **state**.

When it comes to securities professionals, they are broken down into four categories: broker-dealers, agents, investment advisers, and investment adviser representatives.

Broker-dealers (BDs) buy and sell securities. This can be for their own account or for the

accounts of others, for example, their clients. Trust companies, issuers of securities, agents, banks, or savings institutions are not included in the definition of a BD.

Should they have an office in a state, it is with the administrator of that state that they will need to register. Should there be no place of business in a state, a person won't be seen as a BD. This applies also if it is with other BDs, institutions, or the issuer of securities that transactions take place.

Under the snowbird exemption, there are exceptions including a BD which is licensed under the specific state's securities act in which they maintain a place of business and the BD who sells and offers in the state to persons who are already their existing customers but who are not residents of the state.

An **agent** is any individual that represents an issuer or BD and effects or attempts to effect securities sales or purchases. An agent, however, can never be the BD.

As long as they don't take part in any sales-related activities, any administrative employees of a BD are not considered agents either.

For individuals that represent the issuer, if they are involved with exempt securities or an exempt transaction, they are not deemed to be agents.

They will be, however, if they deal with transactions that are related to the employees of the issuer for which a sale-related compensation is paid to them.

When it comes to splitting commissions, BDs don't have to tell their clients that this is happening, but it can only be carried out between agents that are affiliated to the BD.

An investment adviser (IA) is someone who receives compensation for advising others. This could be directly or through writing and

publication, for example. This advice deals with the value of securities, as well as advice on what to purchase or sell. It also covers the production of reports or analyses regarding securities.

SEC Release IA-1092 states that financial planners, for example, pension consultants and sports representatives can also fall under the definition of an IA, if, as part of their business, they provide investment advisory services to their clients.

The following are excluded from the definition: Engineers, teachers, lawyers, and accountants but only if they offer incidental advice linked to their profession for which they receive no compensation.

Federal covered IAs generally register with the SEC and are excluded from the USA's definition of an IA.

The **National Securities Markets Improvement Act of 1996 (NSMIA)** brought about the split between state and federal regulation of IAs.

The Dodd-Frank Act of 2010 modified this further.

- SEC registration is necessary for a federal covered advisor that controls AUM of \$110 million or higher
- State registration is necessary if AUM <\$100 million
- Advisor can choose registration method if AUM is between \$100 and \$110
- An advisor can remain with an AUM of at least \$90 million once they have registered with the SEC

An IA is federally covered if investment companies form part of their advisory clients.

An IA who has no office in a particular state but deals with other IAs, BDs, and institutions, or who meets the snowbird rules is exempt from registration under the USA.

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LL Leslie

A red circular graphic with a gradient, appearing as a stylized arrow or a partial circle, located to the right of the author's name.

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