

# NOTICE Regarding Investment Adviser Representative Registration

## Overview

The State of Michigan has replaced its current securities act with the new Uniform Securities Act (2002) 2008, PA 551 (the New Act), effective October 1, 2009. Under the New Act, the State of Michigan will require the registration of investment adviser representatives unless they are exempt from registration. Individuals will use Form U-4 through the CRD/IARD System maintained by FINRA to register.

## Definition of an Investment Adviser Representative

Section 102a(f) of the New Act defines an “investment adviser representative” as “an individual employed by or associated with an investment adviser or federal covered investment adviser and who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds himself or herself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing.”

## Exclusions from the Definition of an Investment Adviser Representative

Section 102a(f) of the New Act states the following individuals are excluded from the definition of investment adviser representative and thus do not require registration:

- Performs only clerical or ministerial acts.
- Is an agent whose performance of investment advice is solely incidental to the individual acting as an agent and does not receive special compensation for investment advisory services.
- Is employed by or associated with a federal covered investment adviser, unless the individual meets any of the following:
  - Has a “place of business” in this state as that term is defined by rule adopted under section 203A of the Investment Advisers Act of 1940, 15 USC 80b-3a, and is an “investment adviser representative” as that term is defined by rule adopted under section 203A of the Investment Advisers Act of 1940, 15 USC 80b-3a.
  - Has a “place of business” in this state as that term is defined by rule adopted under section 203A of the Investment Advisers Act of 1940, 15 USC 80b-3a, and is not a “supervised person” as that term is defined in section 202(a)(25) of the Investment Advisers Act of 1940, 15 USC 80b-2.
- Is excluded by rule or order under the New Act

## **Exemptions from Registration as an Investment Adviser Representative**

Section 404(2) of the New Act states that the following individuals are exempt from registration:

- An individual who is employed by or associated with an investment adviser that is exempt from registration under Section 403(2) or a federal covered investment adviser that is excluded from the notice filing requirements of Section 405.
- Any other individual exempted by rule or order under the New Act.

## **Rules to the New Act Regarding Investment Adviser Representative Registration**

Rules to the New Act have yet to be passed. In light of this, many of the particulars regarding registration requirements, examination requirements and waivers, etc. have yet to be determined. If Rules to the New Act are not passed by October 1, 2009, the State of Michigan will issue Orders that will be effective until the rules pass.

## **Registration Window for Investment Adviser Representatives**

The State of Michigan will have a window of time (to be determined) for individuals to comply with the New Act's registration requirement.

## **Questions Regarding Investment Adviser Representative Registration**

Questions regarding investment adviser representative registration should be sent to [ofir-sec-info@michigan.gov](mailto:ofir-sec-info@michigan.gov) with "IAR Registration Question" in the subject line. The questions will not be answered immediately but instead be answered as "frequently asked questions" in future updates regarding this topic. This allows others to benefit from all questions asked.

To refer to the New Act regarding all new requirements please visit our website at: [www.michigan.gov/ofir](http://www.michigan.gov/ofir)

Questions regarding Form U-4 and the CRD/IARD System are to be directed to the FINRA Gateway Call Center at 301-590-6500.

Sincerely,

The Office of Financial and Insurance Regulation  
State of Michigan