

**RCW 21.20.005 Definitions.** The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for that person's own account. "Broker-dealer" does not include (a) a salesperson, issuer, bank, savings institution, or trust company, (b) a person who has no place of business in this state if the person effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (c) a person who has no place of business in this state if during any period of twelve consecutive months that person does not direct more than fifteen offers to sell or to buy into or make more than five sales in this state in any manner to persons other than those specified in (b) of this subsection.

(2) "Customer" means a person other than a broker-dealer or investment adviser.

(3) "Director" means the director of financial institutions of this state.

(4) "Federal covered adviser" means any person registered as an investment adviser under section 203 of the investment advisers act of 1940.

(5) "Federal covered security" means any security defined as a covered security in the securities act of 1933.

(6) "Full business day" means all calendar days, excluding therefrom Saturdays, Sundays, and all legal holidays, as defined by statute.

(7) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(8) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, (a) provide the foregoing investment advisory services to others for compensation as part of a business or (b) hold themselves out as providing the foregoing investment advisory services to others for compensation. Investment adviser shall also include any person who holds himself or herself out as a financial planner.

"Investment adviser" does not include (a) a bank, savings institution, or trust company, (b) a lawyer, accountant, certified public accountant licensed under chapter 18.04 RCW, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (c) a broker-dealer or its salesperson whose performance of these services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for them, (d) a publisher of any bona fide newspaper, news magazine, news column, newsletter, or business or financial publication or service, whether communicated in hard copy form, 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, (e) a radio or television station, (f) a person whose advice, analyses, or reports relate only to securities exempted by RCW 21.20.310(1), (g) an investment adviser representative, or (h) such other persons not within the intent of this paragraph as the director may by rule or order designate.

(9) "Investment adviser representative" means any partner, officer, director, or a person occupying similar status or performing similar functions, or other individual, who is employed by or associated with an investment adviser, and who does any of the following:

(a) Makes any recommendations or otherwise renders advice regarding securities;

(b) Manages accounts or portfolios of clients;

(c) Determines which recommendation or advice regarding securities should be given;

(d) Solicits, offers, or negotiates for the sale of or sells investment advisory services; or

(e) Supervises employees who perform any of the functions under (a) through (d) of this subsection.

(10) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type; the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(11) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(12) "Person" means an individual, a corporation, a partnership, a limited liability company, a limited liability partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(13) "Relatives," as used in RCW 21.20.310(11) includes:

(a) A member's spouse;

(b) Parents of the member or the member's spouse;

(c) Grandparents of the member or the member's spouse;

(d) Natural or adopted children of the member or the member's spouse;

(e) Aunts and uncles of the member or the member's spouse; and

(f) First cousins of the member or the member's spouse.

(14) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the

same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(15) "Salesperson" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. "Salesperson" does not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by RCW 21.20.310 (1), (2), (3), (4), (9), (10), (11), (12), or (13), (b) effecting transactions exempted by RCW 21.20.320 unless otherwise expressly required by the terms of the exemption, or (c) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

(16) "Securities act of 1933," "securities exchange act of 1934," "public utility holding company act of 1935," "investment company act of 1940," and "investment advisers act of 1940" means the federal statutes of those names as amended before or after June 10, 1959.

(17) (a) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; investment of money or other consideration in the risk capital of a venture with the expectation of some valuable benefit to the investor where the investor does not receive the right to exercise practical and actual control over the managerial decisions of the venture; voting-trust certificate; certificate of deposit for a security; fractional undivided interest in an oil, gas, or mineral lease or in payments out of production under a lease, right, or royalty; charitable gift annuity; any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof; or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any security under this subsection. This subsection applies whether or not the security is evidenced by a written document.

(b) "Security" does not include: (i) Any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period; or (ii) an interest in a contributory or noncontributory pension or welfare plan subject to the employee retirement income security act of 1974.

(18) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico. [2011 c 336 § 594; 2002 c 65 § 1; 1998 c 15 § 1; 1994 c 256 § 3. Prior: 1993 c 472 § 14; 1993 c 470 § 4; 1989 c 391 § 1; 1979 ex.s. c 68 § 1; 1979 c 130 § 3; 1977 ex.s. c 188 § 1; 1975 1st ex.s. c 84 § 1; 1967 c 199 § 1; 1961 c 37 § 1; 1959 c 282 § 60.]

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Findings—Construction—1994 c 256:** See RCW 43.320.007.

**Effective date—1993 c 472:** See RCW 43.320.900.

**Severability—1979 c 130:** See note following RCW 28B.10.485.