

# WEST VIRGINIA CODE: §32-2-201

## **§32-2-201. Registration requirement.**

(a) It is unlawful for any person to transact business in this state as a broker-dealer or agent unless he or she is registered under this chapter.

(b) It is unlawful for any broker-dealer or issuer to employ an agent unless the agent is registered. The registration of an agent is not effective during any period when he or she is not associated with a particular broker-dealer registered under this chapter or a particular issuer. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make him or her an agent, the agent as well as the broker-dealer or issuer shall promptly notify the commissioner.

(c) It is unlawful for any person to transact business in this state as an investment adviser unless: (1) He or she is so registered under this chapter; (2) he or she is a federal-covered adviser except that, until October 10, 1999, a federal-covered adviser for which a nonpayment or underpayment of a fee has not been promptly remedied following written notification to the adviser of such nonpayment or underpayment shall be required to register under this article; or (3) he or she has no place of business in this state and: (A) His or her only clients in this state are investment companies as defined in the Investment Company Act of 1940, other investment advisers, federal-covered advisers, broker-dealers, banks, trust companies, savings and loan associations, insurance companies, employee benefit plans with assets of not less than \$1 million and governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the commissioner; or (B) during any period of twelve consecutive months he or she does not have more than five clients who are residents of this state, other than those specified in this subsection, whether or not he or she or any of the clients who are residents of this state is then present in the state.

(d) Every registration or notice filing expires one year from its effective date unless renewed. The commissioner by rule or order may prepare an initial schedule for renewals of registrations or notice filings so that subsequent renewals of registrations or notice filings effective on the effective date of this chapter may be staggered by calendar months. For this purpose the commissioner by rule may reduce the registration or notice filing fee proportionately.

(e) It is unlawful for any:

(1) Person required to be registered as an investment adviser under this article to employ an investment adviser representative unless the investment adviser representative is registered under this article: Provided, That the registration of an investment adviser representative is not effective during any period when he or she is not employed by an investment adviser registered under this article; or

(2) Federal-covered adviser to employ, supervise or associate with an investment adviser representative having a place of business located in this state, unless such investment adviser representative is registered under this article or is exempt from registration. When an investment adviser representative begins or terminates employment with an investment adviser, the investment adviser (in the case of 401 (g)), or the investment adviser representative (in the case of 401 (f)), shall promptly notify the commissioner.

(f) Except with respect to advisers whose only clients are those described in subdivision (3), subsection (c) of this section, it is unlawful for any federal-covered adviser to conduct advisory business in this state unless such person complies with the provisions of subsection (b), section two hundred two of this article.

(g) An applicant must be registered or qualified in the securities business in the state of the applicant's principal place of business. The commissioner may waive this requirement upon a finding that the applicant is registered with the securities and exchange commission or any other national securities exchange or national securities association registered under the Securities Exchange Act of 1934. A request to waive this requirement must be made upon written application to the commissioner which includes documentation upon which the applicant relies in requesting the waiver.