

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 276

[Release No. IA-770]

Applicability of the Investment Advisers Act to Financial Planners,
Pension Consultants, and Other Persons who Provide Investment Advisory
Services as an Integral Component of Other Financially Related Services

AGENCY: Securities and Exchange Commission.

ACTION: Statement of staff interpretive position.

SUMMARY: The Commission is publishing the views of the staff of the Division of Investment Management as to the applicability of the Investment Advisers Act of 1940 to financial planners, pension consultants, and other persons who, as an integral component of other financially related services, provide investment advisory services to others for compensation. The purpose of this release is to call to the attention of persons providing such services, as well as members of the general public who may utilize such services, the circumstances under which persons providing these services would be investment advisers under the Advisers Act and subject to the Act's registration, antifraud and other provisions. The guidance provided in this release should assist providers of financial advisory services in complying with the Advisers Act and reduce the number of requests for staff interpretive or no-action advice with respect to the applicability of the Advisers Act to such persons where the requests do not present any novel factual or interpretive issues. With one exception the interpretive views set forth in the release are based on positions consistently taken by the staff in the past. In the case of the

one exception, the position articulated in the release may have the effect of excepting from the definition of investment adviser certain persons the staff would not regard as being in the business of providing investment advice.

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SUPPLEMENTARY INFORMATION:

The staff of the Commission has received numerous requests for staff interpretive or no-action advice concerning the applicability of the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.] ("Advisers Act") to persons, such as financial planners, pension consultants, sports and entertainment representatives and others, who provide investment advisory services as an integral component of, or bundled with, other financially related services. In addition, it appears that many of these persons may not be aware of the provisions of the federal securities laws which may be applicable to their activities, particularly the fiduciary standards and registration requirements of the Advisers Act. It is the view of the staff that, for the reasons set forth below, many of the persons providing such services to the public are investment advisers under the definition of investment adviser contained in Section 202(a)(11) of the Advisers Act [15 U.S.C. 80b-2(a)(11)] and are not entitled to rely on any of the exceptions from that definition.

provided in clauses (A) to (F) of Section 202(a)(11). An investment adviser who uses the mails or any means or instrumentality of interstate commerce in connection with his or its business as an investment adviser is subject to the registration, antifraud, and other provisions of the Advisers Act, unless the adviser is excepted from registration under Section 203(b) of the Advisers Act [15 U.S.C. 80b-3(b)]. An adviser excepted from registration under the Advisers Act remains subject to its antifraud provisions.

I. BACKGROUND

Financial planning typically involves the provision of a variety of services, principally advisory in nature, to individuals or families with respect to management of financial resources based upon an analysis of individual client needs. Generally, financial planning services involve the preparation of a financial program for a client based upon information elicited from the client as to the client's financial circumstances and objectives. Such information normally would cover present and anticipated assets and liabilities, including insurance, savings, investments, and anticipated retirement or other benefits. The program developed for the client typically includes general recommendations for a course of activity, or specific actions, to be taken by the client. For example, recommendations may be made that the client obtain insurance or revise existing coverage, establish an individual retirement account, increase or decrease funds held in savings accounts, or

invest funds in securities. A financial planner may develop tax or estate plans for the client or may refer the client to an accountant or attorney for these services. The provider of such financial planning services typically assists the client in implementing the recommended program by, among other things, making specific recommendations to carry out the general recommendations of the program, or by selling to the client insurance products, securities, or other investments. The financial planner may also review the client's program periodically and recommend revisions. Persons providing such financial planning services use various compensation arrangements. Some financial planners charge clients an overall fee for the development of an individual client program while others charge clients an hourly fee. In some instances financial planners are compensated, in whole or in part, through the receipt of sales commissions upon the sale to the client of insurance products, mutual fund shares, interests in real estate, or other investments.

A second common form of service relating to financial matters is that provided by "pension consultants" who typically offer, in addition to administrative services, a variety of advisory services to employee benefit plans and their fiduciaries based upon an analysis of the needs of the individual plan. Such advisory services may include advice as to the types of funding media available to provide plan benefits, general recommendations as to what portion of plan assets should be invested in various investment media, including securities, and, in some cases, recommendations regarding investment in specific securities or other investments. Pension consultants

may also assist plan fiduciaries in determining plan investment objectives and policies and in designing funding media for the plan. They may also provide general or specific advice to plan fiduciaries as to the selection or retention of persons to manage the assets of the plan.^{1/} Persons providing such services to plans are customarily compensated for the provision of their services through the receipt of fees paid by the plan, its sponsor, or other persons; by means of sales commissions on the sale of insurance products or investments to the plan; or through a combination of fees and commissions.

Another form of financial advisory service is that provided by persons offering a variety of financially related services to entertainers or athletes based upon the needs of the individual client. Such persons, who often use the designation "sports representative" or "entertainment representative," typically offer a number of services to clients, including the negotiation of employment contracts and development of promotional opportunities for the client, as well as advisory services related to investments, tax planning, or budget and money management. Some persons providing these services to clients may assume discretion over all or a portion of a client's funds by collecting income, paying bills and making investments for the client. Sports or entertainment representatives are cus-

^{1/} The authority to manage all or a portion of a plan's assets often is delegated to a person who qualifies as an "investment manager" under the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.]. Under that statute, which is applicable to private sector pension and welfare benefit plans, an "investment manager" must be a registered investment adviser under the Advisers Act, a bank as defined in the Advisers Act, or an insurance company which is qualified to perform services as an investment manager under the laws of more than one state.

tomarily compensated for the provision of their services primarily through fees charged for negotiation of employment contracts but may also receive compensation in the form of fixed charges or hourly fees for other services, including investment advisory services, which they provide.

There are other persons who, while not falling precisely into one of the foregoing categories, provide financial advisory services. As discussed below, financial planners, pension consultants, sports or entertainment representatives, or other persons providing financial advisory services, may be investment advisers within the meaning of the Advisers Act.

II. STATUS AS AN INVESTMENT ADVISER

A. Definition of Investment Adviser

Section 202(a)(11) of the Advisers Act defines the term "investment adviser" to mean:

. . . 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 part of a regular business, issues or promulgates analyses or reports concerning securities

Whether a person providing financially related services of the type discussed in this release would be an investment adviser within the meaning of the Advisers Act would depend upon all the relevant facts

and circumstances. As a general matter, however, if the activities of any person providing such integrated advisory services satisfy each element of either part of the foregoing two part definition, such person would be an investment adviser within the meaning of the Advisers Act, unless entitled to rely on one of the exceptions from the definition of investment adviser in clauses (A) to (F) of Section 202(a)(11).^{2/} Accordingly, a determination as to whether a person providing financial planning, pension consulting, or other integrated advisory services is an investment adviser will depend upon whether such person: (1) provides advice, or issues reports or analyses, regarding securities; (2) whether he is in the business of providing such services; and (3) whether he provides such services for compensation. These three elements are discussed below.

1. Advice or analyses concerning securities

It would seem apparent that a person who gives advice or makes recommendations or issues reports or analyses with respect to specific securities is an investment adviser under Section 202(a)(11), assuming the other elements of the definition of investment adviser are met, i.e., that such services are performed as part of a business and for compensation. However, it has been asked on a number of occasions whether advice, recommendations or reports that do not pertain to specific securities satisfy this element of the definition. In the view of the staff, a person who provides advice, or issues or

^{2/} See discussion of Section 202(a)(11)(A) to (F) in Section II B, infra.

promulgates reports or analyses, which concern securities, but which do not relate to specific securities, would generally be an investment adviser under Section 202(a)(11), assuming such services are performed as part of a business 3/ and for compensation. The staff has interpreted the definition of investment adviser to include persons who advise clients either directly or through publications or writings concerning the relative advantages and disadvantages of investing in securities in general as compared to other investment media.4/ A person who, in the course of developing a financial program for a client, advises a client as to the desirability of investing in securities as opposed to, or in relation to, stamps, coins, direct ownership of commodities, or any other investment vehicle would also be "advising" others within the meaning of Section 202(a)(11).5/ Similarly, a person who advises employee benefit plans on funding plan benefits by investing in securities, as opposed to, or in addition to, insurance products, real estate or other funding media, would be "advising" others within the meaning of Section 202(a)(11). A person providing advice to a client as to the selection or retention

3/ In this regard, as discussed in detail below, it is the staff's view that a person who gives advice or prepares analyses concerning securities generally may, nevertheless, not be "in the business" of doing so and, therefore, will not be considered an "investment adviser" as that term is used in Section 202(a)(11).

4/ See, e.g. Richard K. May (avail. Dec. 11, 1979); Hayes Martin (avail. Feb. 15, 1980); Pauline Wang (avail. Mar. 21, 1980).

5/ See, e.g. Thomas Beard (avail. May 8, 1975); Sinclair-deMarinis Inc. (avail. May 1, 1981).

of an investment manager or managers also would, under certain circumstances, be deemed to be "advising" others within the meaning of Section 202(a)(11).^{6/}

2. The "business" standard

In order to come within the definition of an investment adviser, a person must engage for compensation in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or issue or promulgate reports or analyses concerning securities as part of a regular business. Under this definition, the giving of advice or issuing of reports or analyses concerning securities for compensation need not constitute the principal business activity or any particular portion of the business activities of a person in order for the person to be an investment adviser under Section 202(a)(11). However, a person who provides investment advice for compensation but is not

^{6/} See, e.g., FPC Securities Corp. (avail. Dec. 1, 1974) (program to assist client in selection and retention of investment manager by, among other things, recommending investment managers to clients, monitoring and evaluating the performance of a client's investment manager, and advising client as to the retention of such manager); William Bye Co. (avail. Apr. 26, 1973) (program involving recommendations to client as to selection and retention of investment manager based upon client's investment objectives and periodic monitoring and evaluation of investment manager's performance). On occasion in the past the staff has taken no-action positions with respect to certain situations involving persons providing advice to clients as to the selection or retention of investment managers. See, e.g., Sebastian Associates, Ltd., (avail. Aug. 7, 1975) (provision of assistance to clients in obtaining and coordinating the services of various professionals such as tax attorneys and investment advisers, including referring clients to such professionals, in connection with business as agent for clients with respect to negotiation of employment and promotional contracts); Hudson Valley Planning Inc. (avail. Feb. 25, 1978) (provision of names of several investment managers to client upon request, without recommendation, in connection with business of providing administrative services to employee benefit plans).

in the business of advising others as to the value of securities or the advisability of investing in securities, or does not issue reports or analyses concerning securities as part of a regular business, does not come within the Advisers Act's definition of an investment adviser.

Whether or not a person's activities constitute being engaged in the business of advising others as to the value of securities or the advisability of investing in securities or issuing reports or analyses concerning securities as part of a regular business will depend on (1) whether the investment advice being provided is solely incidental to a non-investment advisory, primary business of the person providing the advice; (2) the specificity of the advice being given; and (3) whether the provider of the advice is receiving, directly or indirectly, any special compensation therefor.^{7/} As a general matter, the staff would take the position that a person who provides financial services including investment advice for compensation is in the business of providing investment advice within the meaning of Section 202(a)(11) unless the advice being provided by such person is solely incidental to a non-investment advisory business of the person, is non-specific, and is not rewarded by special compensation for such investment advice.

If a person holds himself out as an investment adviser or as one who provides investment advice, he would be considered to be in the business of providing investment advice. However, a person whose

^{7/} These criteria were developed as part of the staff's on-going review of prior staff interpretive letters and have not previously been articulated.

principal business is providing financial services other than investment advice would not be regarded as being in the business of giving investment advice if, as part of his service, he merely discusses in general terms the advisability of investing in securities in the context of, for example, a discussion of economic matters or the role of investments in securities in a client's overall financial plan. The staff would, however, take the position that such a person is in the business of providing investment advice if, on anything other than rare and isolated instances, he discusses the advisability of investing in, or issues reports or analyses as to, specific securities or specific categories of securities (e.g., bonds, mutual funds, technology stocks, etc.).^{8/} In addition, a person who provides market timing services would be viewed as being in the business of giving investment advice. Finally, as previously indicated, a person will be regarded as being in the business of providing such advice if he receives any special compensation therefor or receives any direct or indirect remuneration in connection with a client's purchase or sale of securities. A person would generally not be considered to be receiving special compensation for the provision of advisory services if he makes no charge for the advisory

^{8/} Compare, Zinn v. Parrish, 644 F.2d 360 (7th Cir. 1981), CCH Sec. L. Rep. ¶97,920.

portion of his services or if he charges an overall fee for financial advisory services of which the investment advice is an incidental part.

3. Compensation

The definition of investment adviser applies to persons who give investment advice and receive compensation therefor. This compensation element is satisfied by the receipt of any economic benefit, whether in the form of an advisory fee, some other fee relating to the total services rendered, commissions, or some combination of the foregoing. It is not necessary that a person who provides investment advisory and other services to a client charge a separate fee for the investment advisory portion of the total services. The compensation element would be satisfied if a single fee were charged for the provision of a number of different services, which services included the giving of investment advice or the issuing of reports or analyses concerning securities within the meaning of the Advisers Act.^{9/} As discussed above, however, the fact that no separate fee is charged for the investment advisory portion of the service could be relevant to whether the person is "in the business" of giving investment advice.

It is not necessary that an adviser's compensation be paid directly by the person receiving investment advisory services, but only that the investment adviser receive compensation from some source for his services.^{10/} Accordingly, a person providing a variety of services to a client, including investment advisory services, for which the person receives any economic benefit, for example, by receipt of a single fee or commissions upon the

^{9/} See, e.g. FINESCO, (avail. Dec. 11. 1979).

^{10/} See, e.g. Warren H. Livingston (avail. Mar. 8, 1980).

sale to the client of insurance products or investments, would be performing such advisory services "for compensation" within the meaning of Section 202(a)(11) of the Advisers Act. 11/

B. Exceptions from definition of investment adviser

Clauses (A) to (E) of Section 202(a)(11) of the Advisers Act set forth limited exceptions from the definition of investment adviser available to certain persons.12/ Whether an exception from the definition of investment adviser is available to any financial planner, pension consultant, or other person, providing investment advisory services within the meaning of Section 202(a)(11), will depend upon the relevant facts and circumstances.

A person relying on an exception from the definition of investment adviser must meet all of the requirements of such exception. It is the view of the staff that the exception contained in Section 202(a)(11)(B)

11/ Section 202(a)(11)(C) of the Advisers Act excepts from the definition of investment adviser a broker or dealer who performs investment advisory services which are incidental to the conduct of its broker-dealer business and who receives no special compensation therefor. See discussion of Section 202(a)(11)(C) infra.

12/ Section 202(a)(11) provides that the definition of investment adviser does not include:

- (A) a bank, or any bank holding company as defined in the Bank Holding Company Act of 1956, which is not an investment company;
- (B) any lawyer, accountant, engineer, or teacher whose performance of such [advisory] services is solely incidental to the practice of his profession;

cont.

would not be available, for example, to a lawyer or accountant who holds himself out to the public as providing financial planning, pension consulting, or other financial advisory services. In such a case it would appear that the performance of investment advisory services by such person would be incidental to the practice of his financial planning or pension consulting profession and not incidental to his

(Footnote continued)

- (C) any broker or dealer whose performance of such [advisory] services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation therefor;
- (D) the publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular circulation;
- (E) any person whose advice, analyses, or reports relate to no securities other than securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest which shall be designated by the Secretary of the Treasury, pursuant to Section 3(a)(12) of the Securities Exchange Act of 1934, as exempted securities for the purposes of that Act. . . .

Section 202(a)(11)(F) excepts from the definition of investment adviser "such other persons not within the intent of this paragraph, as the Commission may designate by rules and regulations or order."

practice as a lawyer or accountant.^{13/} Similarly, the exception for brokers or dealers contained in Section 202(a)(11)(C) would not be available to a broker or dealer, or associated person of a broker or dealer, acting within the scope of its business as broker or dealer, if such person receives any special compensation for the provision of investment advisory services.^{14/} Moreover, the exception from the definition of investment adviser contained in Section 202(a)(11)(C) would not be available to an associated person of a broker-dealer or "registered representative" who provides investment advisory services to clients outside of the scope of

^{13/} See, e.g. Mortimer M. Lerner (avail. Feb 15, 1980). The "professional" exception provided in Section 202(a)(11)(B) by its terms is only available to lawyers, accountants, engineers, and teachers. A person engaged in a profession other than one of those enumerated in Section 202(a)(11)(B) who performs investment advisory services would be an investment adviser within the meaning of Section 202(a)(11) whether or not the performance of investment advisory services is incidental to the practice of such profession. Unless another basis for excepting such person from the definition of investment adviser is available, such person would be subject to the Advisers Act.

^{14/} See, e.g. FINESCO, *supra*. For a general statement of the views of the staff regarding special compensation under Section 202(a)(11)(C), see Investment Advisers Act Release No. 640 (October 5, 1978).

such person's employment with the broker-dealer.^{15/}

III. REGISTRATION AS AN INVESTMENT ADVISER

Any person who is an investment adviser within the meaning of Section 202(a)(11) of the Advisers Act, who is not excepted from the definition of investment adviser by virtue of one of the exceptions in Section 202(a)(11)(A) to (F), and who makes use of the mails or any instrumentality of interstate commerce in connection with such person's business as an investment adviser, is required by Section 203(a) of the Advisers Act to register with the Commission as an investment adviser unless specifically excepted from registration by Section 203(b) of the Advisers Act.^{16/} The materials necessary for registering

^{15/} See, e.g. George E. Bates (avail. Apr. 26, 1979).

^{16/} Section 203(b) excepts from registration

(1) any investment adviser all of whose clients are residents of the State within which such investment adviser maintains his or its principal office and place of business, and who does not furnish advice or issue analyses or reports with respect to securities listed or admitted to unlisted trading privileges on any national securities exchange;

(2) any investment adviser whose only clients are insurance companies; or

(3) any investment adviser who during the course of the preceding twelve months has had fewer than fifteen clients and who neither holds himself out generally to the public as an investment adviser nor acts as an investment adviser to any investment company registered under the [Investment Company Act]....

with the Commission as an investment adviser can be obtained by writing Publications Unit, Securities and Exchange Commission, Washington, D.C. 20549.

IV. APPLICATION OF ANTIFRAUD PROVISIONS

The antifraud provisions of Section 206 of the Advisers Act [15 U.S.C. 80b-6], and the rules adopted by the Commission thereunder, apply to any person who is an investment adviser as defined in the Advisers Act, whether or not such person is required to be registered with the Commission as an investment adviser. Sections 206(1) and (2) make it unlawful for an investment adviser, directly or indirectly, to "employ any device, scheme, or artifice to defraud any client or prospective client" or to "engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client."^{17/} An investment adviser is a fiduciary

^{17/} In addition, Section 206(3) of the Advisers Act generally makes it unlawful for an investment adviser acting as principal for his own account knowingly to sell any security to or purchase any security from a client, or, acting as broker for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction. The responsibilities of an investment adviser dealing with a client as principal or as agent for another person are discussed in Advisers Act Release Nos. 40 and 470 (February 5, 1945 and August 20, 1975 respectively).

who owes his clients "an affirmative duty of 'utmost good faith, and full and fair' disclosure of all material facts."^{18/} The Supreme Court has stated that a "[f]ailure to disclose material facts must be deemed fraud or deceit within its intended meaning, for, as the experience of the 1920's and 1930's amply reveals, the darkness and ignorance of commercial secrecy are the conditions under which predatory practices best thrive."^{19/} Accordingly, the duty of an investment adviser to refrain from fraudulent conduct includes an obligation to disclose material facts to his clients whenever the failure to do so would defraud or operate as a fraud or deceit upon any client or prospective client. In this connection the adviser's duty to disclose material facts is particularly pertinent whenever the adviser is in a situation involving a conflict, or potential conflict, of interest with a client.

The type of disclosure required by an investment adviser who has a potential conflict of interest with a client will depend upon all the facts and circumstances. As a general matter, an adviser must disclose to clients all material facts regarding the potential conflict of

^{18/} SEC v. Capital Gains Research Bureau, 375 U.S. 180, 194 (1963) quoting Prosser, Law of Torts (1955), 534-535.

^{19/} Id., at 200.

interest so that the client can make an informed decision as to whether to enter into or continue an advisory relationship with the adviser or whether to take some action to protect himself against the specific conflict of interest involved. The following examples, which have been selected from cases and staff interpretive and no-action letters, illustrate the scope of the duty to disclose material information to clients in certain common situations involving conflicts of interests.

An investment adviser who is also a registered representative of a broker-dealer and provides investment advisory services outside the scope of his employment with the broker-dealer must disclose to his advisory clients that his advisory activities are independent from his employment with the broker-dealer.^{20/} Additional disclosures would be required, depending on the circumstances, if the investment adviser recommends that his clients execute securities transactions through the broker-dealer with which the investment adviser is associated. For example, the investment adviser would be required to disclose fully the nature and extent of any interest the investment adviser has in such recommendation, including

^{20/} David P. Atkinson (avail. Aug. 1, 1977).

any compensation the investment adviser would receive from his employer in connection with the transaction.^{21/} In addition, the investment adviser would be required to inform his clients of their ability to execute recommended transactions through other broker-dealers.^{22/} Finally, the Commission has stated that "an investment adviser must not effect transactions in which he has a personal interest in a manner that could result in preferring his own interest to that of his advisory clients."^{23/}

An investment adviser who structures his personal securities transactions to trade on the market impact caused by his recommendations to clients must disclose this practice to clients.^{24/} An investment adviser generally also must disclose if his personal securities transactions are inconsistent with the advice given to clients.^{25/} Finally, an invest-

^{21/} Ibid.

^{22/} Don P. Matheson (avail. Sept. 1, 1976).

^{23/} Kidder, Peabody & Co., Inc., 43 S.E.C. 911, 916 (1968).

^{24/} SEC v. Capital Gains Research Bureau, supra at 197.

^{25/} In the Matter of Dow Theory Letters et. al., Advisers Act Release No. 571 (February 22, 1977).

ment adviser must disclose compensation received from the issuer of a security being recommended.^{26/}

Unlike other general antifraud provisions in the Federal securities laws which apply to conduct "in the offer or sale of any securities"^{27/} or "in connection with the purchase or sale of any security"^{28/}, the pertinent provisions of Section 206 do not refer to dealings in securities but are stated in terms of the effect or potential effect of prohibited conduct on the client. Specifically, Section 206(1) prohibits "any device, scheme, or artifice to defraud any client or prospective client," and Section 206(2) prohibits "any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." In this regard, the Commission has applied Sections 206(1) and (2) in circumstances in which the fraudulent conduct arose out of the investment advisory relationship between an investment adviser and its clients, even though the conduct did not involve a securities trans-

^{26/} In the Matter of Investment Controlled Research et al., Advisers
Act Release No. 701 (September 17, 1979).

^{27/} Section 17(a) [15 U.S.C. 77q(a)] of the Securities Act of 1933 [15 U.S.C. 77a et seq.].

^{28/} Rule 10b-5 [17 CFR 240.10b-5] under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.]. See also Section 15(c) [15 U.S.C. 78o(c)] of the Securities Exchange Act of 1934.

action. For example, in an administrative proceeding brought by the Commission against an investment adviser, the respondent consented to a finding by the Commission that the respondent had violated Sections 206(1) and (2) by persuading its clients to guarantee its bank loans and ultimately to post their securities as collateral for its loans without disclosing the adviser's deteriorating financial condition, negative net worth, and other outstanding loans.^{29/} Moreover, the staff has taken the position that an investment adviser who sells non-securities investments to clients must, under Sections 206(1) and (2), disclose to clients and prospective clients all its interests in the sale to them of such non-securities investments.^{30/}

V. NEED FOR INTERPRETIVE ADVICE

The general interpretive guidance provided in this release should facilitate greater compliance with the Advisers Act. The staff will respond to routine requests for no-action or interpretive advice relating to the status of persons engaged in the types of businesses described in this release by referring persons making such requests to the release, unless the requests present novel factual or interpretive issues such as material departures from the nature and type of

^{29/} In the Matter of Ronald B. Donati Inc. et al., Advisers Act Rel. Nos. 666 and 683 (February 8, 1979 and July 2, 1979 respectively). See also Intersearch Technology, Inc. CCH Fed. Sec. L. Rep. 1974-1975 Trans. Binder ¶80,139 (Feb. 28, 1979) at 85,189.

^{30/} See, Boston Advisory Group (avail. Dec. 5, 1976).

services and compensation arrangements discussed above. Requests for no-action or interpretive advice from the staff should be submitted in accordance with the procedures set forth in Investment Advisers Act Release No. 281 (Jan. 25, 1971).

Accordingly, Part 276 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding Investment Advisers Act Release No. IA-770, Statement of the staff as to the applicability of the Investment Advisers Act to financial planners, pension consultants, and other persons who provide investment advisory services as an integral component of other financially related services, thereto.

By the Commission.

George A. Fitzsimmons
Secretary.

August 13, 1981.