

ADVISORY CONCERNING SECURITIES SALES

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As a licensed financial professional, you undoubtedly want to have the broadest spectrum of quality products available for use with your clients. So too, product providers and promoters seek to have you offer their products to your client base. Unfortunately, some of these promoters want you to sell what later are found to be fraudulent financial products. Often these promoters convincingly represent that their products are not regulated and that no license is needed to sell their products.

Many non-insurance products are securities that are regulated by the Idaho Department of Finance (DOF). This means that the product or offering probably has to be filed with the DOF and that the person selling/recommending the product (you) must be licensed to sell securities.

Please be aware that fraudulent financial product promoters may attempt to convince you that their investment product is not a security. However, if the product promises an investment return and your client is essentially a passive investor¹, it is likely that you are being asked to sell a security. The DOF notes that in recent years it has seen a variety of fraudulent securities offerings that insurance professionals were convinced to offer to their clients. These offerings included²:

- Promissory Notes, whether or not backed by assets or receivables.
- Equipment leasing income pools or specific equipment investment contracts.
- High Yield Investment Programs; sometimes called “trading” programs.
- Pay phone; Cell Tower; or other technology “income” focused “business opportunities.”
- Domestic or offshore resort-related purchase-to-rent real estate opportunities
- Sales of life settlement, viatical or similar investment mediums offered to Idaho investors³

If you are approached to promote or sell passive investment opportunities to your clients, be careful to vet the product and the promoter. You should also consider whether the product might be a security and contact the DOF in advance of selling the product. Doing this might save you from selling products that put you in violation of Idaho law and help you to avoid being involved in a possible enforcement action that could prove costly to you, not to mention the potential financial impact to your clients.

You can contact the DOF at (208) 332-8004 or Idaho toll-free at 1-888-346-3378 to inquire about any products or promoters that you have questions about.

¹ This often means that the investor relies on the expertise of the promoter to ensure that returns are earned.

² The list is not all-inclusive, but meant to provide meaningful examples of the types of products that might be considered securities.

³ These types of products are statutorily defined as a security and regulated by DOF since 2004. The securities regulation is independent of regulations that may also be in place with the Department of Insurance.

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