

## SECURITIES ACT INTERPRETIVE STATEMENT-11

RE: RCW 21.20.320(8) - EXEMPTIONS - "INSTITUTIONAL BUYER"

### Question Presented:

What constitutes an "institutional buyer" for the purpose of the exemption provided by RCW 21.20.320(8)?

### Statute:

**RCW 21.20.320(8)** exempts "any offer or sale to any bank, savings institution, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer. . . ." (emphasis added)

### Discussion:

The Administrator interprets the term "institutional buyer," as used in RCW 21.20.320(8), to include the following:

1. A corporation, business trust, or partnership or wholly owned subsidiary of such an entity, which has been operating for at least 12 months and which has a net worth on a consolidated basis of at least \$10 million as determined by the entity's most recent audited financial statements, such statements to be dated within 16 months of the transaction made in reliance upon this exemption;
2. Any entity which has been granted exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986 and which has a total endowment or trust funds of \$5 million or more according to its most recent audited financial statements, such statements to be dated within 16 months of the transaction made in reliance upon this exemption; or
3. Any wholly-owned subsidiary of a bank, savings institution, insurance company, or investment company as defined in the Investment Company Act of 1940.

The Administrator further finds that the term "institutional buyer" does not include a natural person, individual retirement account (IRA), Keogh account, or other self-directed pension plan. The administrator may consider the inclusion of other entities within the "institutional buyer" definition.

### Conclusion:

The definition of "institutional buyer" excludes natural persons and includes other entities, as specified by the Administrator, of sufficient expertise and financial strength to bear the risks of purchasing unregistered securities.

Adopted: January 1, 1991 Replaces: N/A--New Interpretive Statement  
Jack L. Beyers, Securities Administrator  
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