

## **SECURITIES ACT INTERPRETIVE STATEMENT-14**

RE: RCW 21.20.320(11) - OFFER TO EXISTING SECURITY HOLDERS OF THE ISSUER - APPLICABILITY TO MUTUAL FUNDS

### **Questions presented:**

Does RCW 21.20.320(11) exempt from registration the sale of additional no-load mutual fund shares to fund shareholders?

Does the exemption cover the sale of no-load shares to shareholders of a related fund?

### **Statute:**

**RCW 21.20.320(11)** exempts "any transaction pursuant to an offer to existing security holders of the issuer. . . if (a) no commission or other remuneration . . . is paid . . . for soliciting any security holder in this state. . . ." (emphasis added)

### **Discussion:**

Each separate corporation, trust, or other legal entity is considered a separate issuer. Therefore, the exemption is available for situations where a fund sells additional shares to its shareholders because the same issuer is involved. Consequently, transactions pursuant to dividend or capital gain reinvestment plans could utilize the exemption and such distributions would not be counted against the issuer's permit amount. Of course, no direct or indirect commission can be paid for the solicitation and the shareholders in question may not have had zero account balances at the time of the sale.

The exemption, however, is not available when shares of one fund are sold to the shareholders of a "related" fund where the funds are organized as separate legal entities. In such an instance two separate issuers are involved. Shareholders of a "related fund" are not shareholders of the issuer.

### **Conclusion:**

No-load mutual funds may utilize RCW 21.20.320(11) to exempt the sale of additional shares to their own shareholders. The exemption is not available where shares of a fund are sold to shareholders of a related fund unless the funds are part of the same legal entity.

Adopted: January 1, 1991

Replaces: Statement of Policy 83-25

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