INVESTMENT ADVISER REGISTRATION

CHAPMAN
Focused on Finance®

OVERVIEW

The Investment Advisers Act of 1940 (the "Advisers Act"), rules adopted by the U.S. Securities and Exchange Commission (the "SEC") pursuant thereto, and state laws governing the activities of investment advisers determine when persons engaged in the business of providing investment advice must or may register as an investment adviser with either the SEC or the relevant state authorities. However, the complex set of rules dictating the investment adviser registration analysis is increasingly difficult for investment professionals to navigate. In particular, the Dodd-Frank Wall Street Reform and Consumer Protection Act radically changed the who, where and how of the investment adviser registration analysis. We have published this guide to help simplify the analysis and provide a summary of the trade-offs in the variety of regulatory choices. While this guide applies to all advisers, we have highlighted considerations that the sponsors of both registered and private funds will find useful in their structuring decisions.

This brochure serves as a general overview of investment adviser registration requirements and procedures. Please contact Chapman and Cutler LLP for your specific circumstances pertaining to registration.

CONTENTS

When to Register with the SEC as an Investment Adviser 1

What Is an "Investment Adviser?" 2

Registration with the SEC 3

- Required Registration of Advisers to Registered Investment Companies 3
- AUM & Registration Categories 3
- Calculating AUM 4

Exemptions from SEC Registration Requirement 5

- Private Fund Advisers 5
- Advisers to Venture Capital Funds 5
- General Partners of Private Funds Advised by SEC Registered Adviser 6
- Foreign Private Advisers 6
- Small Business Investment Companies ("SBICs") 7
- Intrastate Advisers 7
- Advisers to Family Offices 7
- Relying Advisers and Umbrella Registration 7

State Registration 8

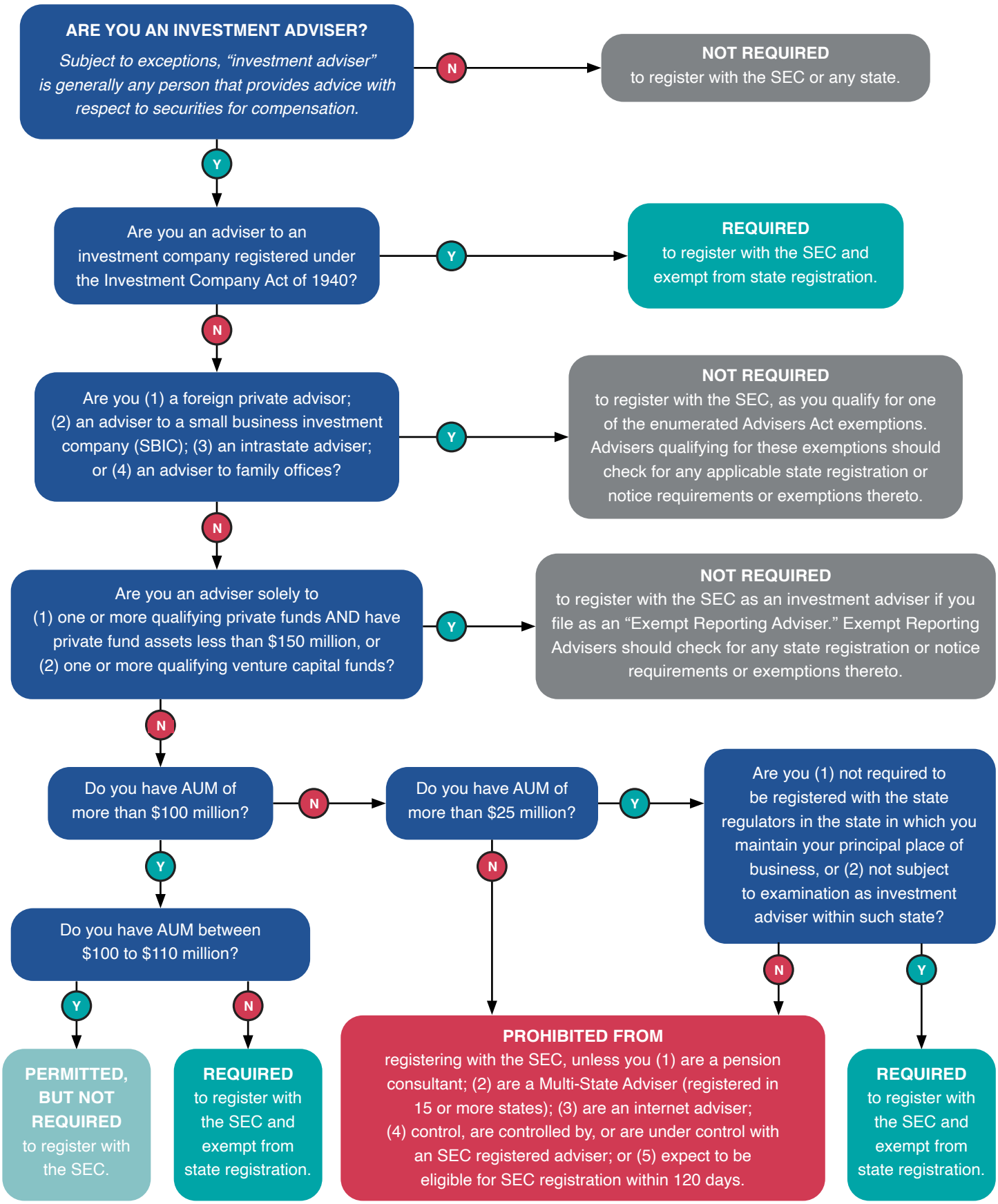
Ongoing Compliance Requirements 9

- SEC-Registered Investment Advisers' Ongoing Compliance Obligations 9
- Exempt Reporting Advisers, Unregistered and State-Registered Investment Advisers' Ongoing Compliance Obligations 9
  - Anti-Fraud Provisions 9
  - Pay-to-Play Rule 9
  - Supervisory Requirements 9
- Special Considerations for Exempt Reporting Advisers 10

Notes 11

For More Information 12

WHEN TO REGISTER WITH THE SEC AS AN INVESTMENT ADVISER



WHAT IS AN "INVESTMENT ADVISER"?

Under the Advisers Act, an investment adviser is defined as "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,"[1] generally excluding:

- banks and bank holding companies;
- lawyers, accountants, and teachers whose investment advice is incidental to their professions;
- broker dealers whose investment advice is solely incidental to their profession or provided without compensation;
- newspaper and magazine publishers;
- family offices; and
- individuals beyond the SEC's discretion.

The Advisers Act definition of "security" is wide ranging and generally thought to encompass more instruments than the definition of the same term under its companion statutes, the Securities Act of 1933 and the Securities Exchange Act of 1934. For example, certain loans that may not be considered securities for purposes of the Securities Act may nonetheless be securities for the Advisers Act. Investment professionals giving advice solely with respect to non-securities are generally outside the scope of the SEC's jurisdiction but may be subject to the jurisdiction of other federal agencies, such as the Commodity Futures Trading Commission, or state regulators.

Under the Advisers Act, "security" means any note, stock, treasury stock, security future, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guaranty of, or warrant or right to subscribe to or purchase any of the foregoing.

Frequently, advisers whose primary business is giving investment advice with respect to non-securities, such as the managers of real estate funds, must analyze whether the advice they do give with respect to securities compels investment adviser registration. For example, a real estate fund manager may invest the fund's assets in temporary investments such as exchange-traded funds, money market funds or publicly traded REITs for cash management purposes. The SEC has stated that a person giving advice with respect to securities beyond a "rare or isolated" basis must register under the SEC.[2]

A frequent source of confusion among private fund managers is the distinction between the test for when an investment vehicle is an "investment company" under the Investment Company Act of 1940 and when an adviser is required to register under the Advisers Act. Generally, an issuer of securities is an investment company if it, among other things, owns or proposes to acquire investment securities having a value exceeding 40% of the value of its total assets (exclusive of government securities and cash items) on an unconsolidated basis. Accordingly, there may be circumstances where the SEC's "rare or isolated" standard compels a person to register as an adviser (or rely on an exemption from registration) even if their managed investment funds are not deemed investment companies for purposes of the Investment Company Act.

More recently, the emergence of digital assets, including cryptocurrencies, stable coins and non-fungible tokens has highlighted the ambiguity within the definition of security under all of the federal securities statutes. While regulators have provided some guidance that certain assets such as bitcoin should not be viewed as securities, significant uncertainty persists with respect to the overwhelming majority of digital assets. Those providing investment advice regarding such assets should carefully consider whether they are obliged to register as investment adviser.

For the remainder of this article, we refer to "investment advisers" as those persons whose activities would meet the definition of investment adviser under the Advisers Act definition.

REGISTRATION WITH THE SEC

Under the Advisers Act, investment advisers must determine whether they (1) **must** register with the SEC, (2) are **permitted, but not required**, to register with the SEC, or (3) are **prohibited** from registration with the SEC. As discussed further below, investment advisers who elect not to or are prohibited from registration with the SEC must consider their obligations in the states in which they do business. Whether an investment adviser is required or allowed to register, or prohibited from registering, with the SEC will largely depend on the value of the assets under management, known as the "**AUM**." Additionally, an investment adviser's SEC registration obligations will be impacted by the types of clients they service and their geographic location.

Advisers whose only clients are registered investment companies are not required to prepare or deliver the Form ADV Part 2A "brochure," which significantly eases the initial registration process.

Required Registration of Advisers to Registered Investment Companies

Section 203A requires investment advisers whose clients include one or more investment companies registered under the Investment Company Act of 1940 (the "Investment Company Act") to register with the SEC, regardless of their AUM or other activities. This provision only applies to advisers to "operational" investment companies, meaning the investment company has assets and shareholders other than just the organizing or "seed" shareholders.

Newly formed advisers in the business of advising registered investment companies will frequently initially register with the SEC by relying on the provision permitting registration of advisers expecting to be otherwise eligible within 120 days.

Advisers in such positions should carefully consider the timing of their initial registration under the 120 day exemption. Historically, many newly formed advisers have underestimated the time it takes to cause an investment company to become "operational" and find themselves in uncomfortable situations with respect to their SEC registration status.

AUM & Registration Categories

The Advisers Act generally provides that persons with $100 million or more in AUM are required to register as investment advisers with the SEC, subject to the exceptions discussed below. Advisers are categorized as follows based on their AUM disclosed in their Form ADV, with each classification having different registration requirements.

Small Advisers ($0-25 million AUM) — *Generally prohibited from registering as an investment adviser with the SEC and must register with respective state unless exempt*

While small advisers are generally prohibited from registering with the SEC as investment advisers, certain exemptions to this prohibition are available. Small advisers may register with the SEC if they are:

- pension consultants advising on assets of at least $200 million;
- controlled by, controlling, or under common control with an SEC-registered investment adviser;
- expecting to be eligible for SEC registration within 120 days;
- multi-state investment advisers required to register in fifteen or more states; or
- internet advisers.[3]

Advisers qualifying for one of the above exemptions are not required to register with the SEC and may remain registered or seek to register with the states instead.

Mid-sized Advisers ($25-100 million AUM) — *Unless required to register based on location of business, generally prohibited from registering as an investment adviser with the SEC and must register with respective state unless exempt*

Like small advisers, mid-sized advisers are generally prohibited from registering as investment advisers with the SEC and the same exemptions from the prohibition provided to small advisers may also be relied on by mid-sized advisers. However, unless an exemption applies, a mid-sized adviser is required to register with the SEC when it is:

- not required to be registered with the state regulators in the state in which it maintains its principal place of business, or
- not subject to examination as investment adviser within such state.

Currently, the only state in which Advisers are not "subject to examination" is New York.

Large Advisers ($100 million+ AUM) — *Generally, must register as an investment adviser with the SEC*

Large advisers are generally required to register as an investment adviser with the SEC unless an exemption, discussed below, is available. SEC rules provide buffers from the harsh effects of falling above or below the $100 million threshold. Advisers with between $100 million and $110 million in AUM are permitted, but not required, to register with the SEC. Similarly, advisers that fall under this "buffer" that are already registered need not withdraw their registration until they have less than $90 million in AUM.

Calculating AUM

To calculate AUM in accordance with SEC standards, advisers must include any securities portfolios continuously and regularly supervised or managed, including private funds, family and proprietary accounts, accounts for which no compensation is received for services, and non-United States client accounts. Furthermore, any outstanding debt or liabilities are not deducted in determining the value of such securities portfolios.

A securities portfolio is an account where at least 50% of the total value of the account consists of securities. Accordingly, the value of non-securities in a "securities portfolio" counts towards an adviser's AUM.

For accounts of private funds, advisers must also include in the securities portfolio any uncalled commitment pursuant to which a person is obligated to acquire an interest in, or make a capital contribution to, the private fund.

You may access full calculation instructions via the SEC's Form ADV.

EXEMPTIONS FROM SEC REGISTRATION REQUIREMENT

An investment adviser otherwise required to register with the SEC may be exempt from doing so if it is:

1. exclusively an adviser to one or more private funds with total AUM less than $150 million;
2. exclusively an adviser to qualifying venture capital funds;
3. a foreign private adviser;
4. a general partner for private funds advised by an SEC registered adviser or exempt reporting adviser ("ERA");
5. exclusively an adviser to one or more small business investment companies ("SBIC");
6. an intrastate adviser;
7. an adviser to family offices; or
8. a relying adviser included in another registered adviser's umbrella registration.

Private Fund Advisers

If a United States-based adviser only manages qualifying private funds with less than $150 million assets under management (determined annually), the investment adviser is exempt from registering with the SEC. When an investment adviser claims the private fund adviser exemption (or venture capital fund exemption, as discussed below), it is deemed to be an "Exempt Reporting Adviser" or "ERA." As discussed further below, ERAs are not required to register under the Advisers Act but are still subject to certain fees and information reporting, including the filing of a truncated Form ADV, and may still be subject to state registration or notice requirements.

Generally, a Section 3(c)(1) fund is one whose securities are beneficially owned by not more than 100 persons, and a 3(c)(7) fund is one whose outstanding securities are owned exclusively by "qualified purchasers," as defined under the Investment Company Act.

Qualifying private funds are those funds that are eligible to rely on the exclusions from the definition of investment company under Sections 3(c)(1) and 3(c)(7) of the Investment Company Act.

If a private fund investment adviser's office or primary place of business is outside the United States, the adviser can still be eligible for the private fund exemption if the adviser:

- has no United States persons as clients (except for qualifying private funds); and
- only manages assets at a United States place of business attributable to private funds from SEC registration with assets valued less than $150 million.

Whether a client is a United States person is determined by the client's status at the time it became a client of the adviser. Therefore, if the client was not a United States person at the time it became a client of the adviser, it will not be deemed a United States person for purposes of the non-United States adviser private fund exemption.

Advisers to Venture Capital Funds

Like the private fund adviser exemption, the venture capital fund adviser exemption exempts advisers to qualifying venture capital funds provided the adviser files as an exempt reporting adviser. A qualifying venture capital fund is a private fund that:

- holds no more than 20 percent of the fund's capital commitments in non-qualifying investments[4] (other than certain short-term holdings);
- does not borrow or otherwise incur leverage, other than limited short-term borrowing (excluding certain guarantees of qualifying portfolio company[5] obligations by the fund);

- does not offer its investors redemption or other similar liquidity rights except in extraordinary circumstances;
- represents itself as pursuing a venture capital strategy to its investors and prospective investors; and
- is not registered under the Investment Company Act and has not elected to be treated as a business development company.

The flexibility to invest up to 20% of its capital commitments in non-qualifying investments allows funds to invest in bridge loans, publicly offered securities, leveraged buyouts, or other venture capital funds up to the 20% capital contributions threshold and still qualify as venture capital funds. By calculating the total value of a fund's assets held at the time they are invested in non-qualifying investments as a percentage of the fund's total commitments, firms can determine whether their fund is under the 20% threshold. Funds must make the calculation every time a non-qualified investment is made. However, the 20% test is not applied perpetually, so subsequent changes in investment value will not impact a fund's eligibility to rely on the exemption.

Foreign Private Advisers

An exemption from registration is available to a non-U.S. investment adviser under the Advisers Act when such adviser:

- has no place of business in the United States and does not identify as a United States investment adviser;
- has fewer than fifteen clients and fund investors in the United States;
- has less than $25 million AUM for United States clients and investors advised; and
- does not act as an investment adviser to a business development company or registered investment company.

To determine whether a foreign private investment adviser has fewer than fifteen clients and investors to qualify for the exemption, advisers must assess each private fund they advise (whether based in the United States or not) and count any United States investors in those private funds. Foreign investment advisers only need to count private funds that rely on Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act. In addition, if an adviser advises multiple legal organizations with the same shareholders, partners, limited partners, members or beneficiaries, the adviser may treat those organizations as one collective client.

General Partners of Private Funds Advised by an SEC Registered Adviser

The staff of the SEC has provided relief from registration obligations for special purpose vehicles ("SPVs") that serve as general partners or similar roles of private funds where the SPV is controlled by a registered investment adviser or ERA, subject to certain conditions.

In 2005 (and subsequently confirmed in 2012), the staff of the SEC issued a no-action letter stating that it would not recommend enforcement action under Section 203(a) or Section 208(d) of the Advisers Act against a registered adviser and an SPV if the SPV does not separately register as an investment adviser, subject to the following representations and undertakings:

- the investment adviser to a private fund establishes the SPV to act as the private fund's general partner or managing member;
- the SPV's formation documents designate the investment adviser to manage the private fund's assets;

- all of the investment advisory activities of the SPV are subject to the Advisers Act and the rules thereunder, and the SPV is subject to examination by the SEC; and
- the registered adviser subjects the SPV, its employees and persons acting on its behalf to the registered adviser's supervision and control and, therefore, the SPV, all of its employees and the persons acting on its behalf are "persons associated with" the registered adviser (as defined in Section 202(a)(17) of the Advisers Act).[6]

Similar relief has been extended to the general partners of funds advised by exempt reporting advisers.

Small Business Investment Companies ("SBICs")

Exemptions are provided to any non-business development company adviser who only advises:

- small business investment companies licensed under the Small Business Investment Act of 1958;
- entities with notice from the Small Business Administration to proceed to qualify for a license under the Small Business Investment Act of 1958; or
- applicants who are affiliated with one or more licensed SBICs and currently have an application pending for license.[7]

Intrastate Advisers

Intrastate advisers are generally exempt from SEC registration when the adviser:

- does not advise on private funds;
- has clients within the same state of the adviser's office and place of business; and
- does not advise, analyze, or report on securities listed on a national securities exchange.

Advisers to Family Offices

Family offices are generally exempt from registration as an investment adviser, subject to certain exceptions. Family offices are those:

- with only family clients, meaning clients who are current and former family members, current and former key employees, and certain non-profits, charities, trusts, and operations for the benefit of family clients; and
- who do not publicize themselves as an investment adviser.

Relying Advisers and Umbrella Registration

Through a 2012 no-action letter (later codified in amendments to Form ADV), the staff of the SEC has provided guidance when one or more private fund advisers that would otherwise be eligible to register with the SEC can rely on a single Form ADV filed by a registered adviser—a so called "umbrella registration." In its guidance, the staff provided than an adviser may rely on the registration of another adviser and not itself register if:

- the filing adviser and each relying adviser advise only (i) private funds, and (ii) separately managed accounts that (a) are beneficially owned by qualified clients (as defined in Rule 205-3 under the Advisers Act), (b) are otherwise eligible to invest in the private funds advised by the filing adviser or a relying adviser, and (c) pursue investment objectives and strategies that are substantially similar or otherwise related to those private funds;

- the filing adviser has its principal office and place of business in the United States and, therefore, all of the substantive provisions of the Advisers Act and the rules thereunder apply to the filing adviser's and each relying adviser's dealings with each of its clients, regardless of whether any client or the filing adviser or relying adviser providing the advice is a United States person;
- each relying adviser, its employees and the persons acting on its behalf, are subject to the filing adviser's supervision and control and, therefore, they are all "persons associated with" the filing adviser (as defined in Section 202(a)(17) of the Advisers Act);
- the advisory activities of each relying adviser are subject to the Advisers Act and the rules thereunder, and each relying adviser is subject to examination by the SEC; and
- the filing adviser and each relying adviser operate under a single code of ethics under Rule 204A-1 under the Advisers Act and a single set of written policies and procedures under Rule 206(4)-(7) under the Advisers Act and administered by a single chief compliance officer in accordance with that rule.

Certain information about relying advisers is required to be disclosed on Schedule R to the filing adviser's Form ADV, including basic identifying information, its basis for SEC registration, its form of organization, and its control persons.

STATE REGISTRATION

Investment advisers registered with the SEC (either because they were required to do so or elect to do so) are not required to register at the state level because federal registration preempts state registration requirements. For advisers not covered by the federal preemption, a variety of exemptions exist in most state codes that are routinely relied upon. For example, most states include an exemption from registration requirements for private fund advisers intended to mirror the exemption available under the Advisers Act. Furthermore, most states only impose registration requirements on advisers that have a minimum number of clients located in a particular state, in most cases being five.

While Section 203A of the Advisers Act preempts state authorities from requiring SEC registered advisers and their supervised persons to register at the state level, it does permit states to impose licensing, registration, examination or qualification requirements on the "investment adviser representatives" of SEC registered advisers. Investment adviser representatives are those supervised persons of an SEC registered investment adviser who have more than five clients who are natural persons and who meet the "10% allowance test," which requires that more than 10% of the investment adviser representative's clients be natural persons. In this way, licensing is aimed at those individuals having a retail presence—as opposed to an institutional presence—in a state.

While the SEC does not impose any proficiency requirements on investment adviser representatives of advisers, most states do impose such requirements as a condition to registration. In most states, passing the Series 65 test is sufficient to satisfy the proficiency requirements. Many, but not all, states also permit the proficiency requirements to be satisfied if the individual has one or more enumerated professional accreditations, such as a CFA or CPA. Most states also allow the proficiency requirements to be satisfied by certain individuals who hold both Series 7 and Series 66 licenses.

ONGOING COMPLIANCE REQUIREMENTS

SEC-Registered Investment Advisers' Ongoing Compliance Obligations

When an investment adviser registers with the SEC, it will generally be subject to the entirety of the Advisers Act. Consequently, SEC-registered investment advisers are, among other things, required to:

- have a compliance program,
- make periodic public filings with the SEC on Form ADV,
- if they advise certain private funds, file Form PF, and
- be subject to and participate in SEC Examinations.

Exempt Reporting Advisers, Unregistered and State-Registered Investment Advisers' Ongoing Compliance Obligations

Generally, the Advisers Act preempts state registration requirements, rather than all state rules and regulations. Thus, investment advisers are often subject to the statutes, rules, and regulations of the state in which they conduct business. In many instances, state laws (*e.g.,* anti-fraud provisions) are imposed upon investment advisers that are not required to register in such states.

Despite unregistered advisers generally being exempt from registration under the Advisers Act, some Advisers Act provisions apply to unregistered and state-registered advisers, including, without limitation, the following:

- **Anti-Fraud Provisions.** The anti-fraud provisions of the Advisers Act make "it ... unlawful for any investment adviser … to employ any device, scheme, or artifice to defraud any client or prospective client."[8] Furthermore, the act, among other things, requires advisers to disclose in writing all material facts (and not make any material omissions) to the client before the completion of any transaction, such as the capacity in which they are acting and any actual or potential conflicts of interest.
- **Pay-to-Play Rule.** The SEC's "pay-to-play" rule prohibits investment advisers that are able to influence the selection or retention of public servants that manage the assets of public entities from providing compensatory advisory services directly or indirectly to a government client for two years following a campaign contribution.[9] An investment adviser subject to the "pay-to-play" rule must make and keep a record of all government entities to which it provides or has provided advisory services (or which are or were investors in any covered investment pool to which the adviser provides or has provided advisory services) for the past five years.[10]
- **Supervisory Requirements.** Under Section 203(e)(6) of the Advisers Act, all investment advisers are obligated to reasonably supervise persons that are subject to their control in order to prevent them from violating the federal securities laws. The SEC has repeatedly emphasized the overall importance of the duty to supervise in the federal regulatory scheme. Accordingly, investment advisers must not only adopt effective procedures for supervision, but must also "provide effective staffing, sufficient resources and a system of follow-up and review to determine that any responsibility to supervise delegated to compliance officers, branch managers and other personnel is being diligently exercised."[11]

Special Considerations for Exempt Reporting Advisers

While exempt from registration under the Advisers Act, ERAs do have several additional regulatory obligations in order to reply on the private fund adviser or venture capital fund adviser exemptions. While ERAs are required to prepare and file a Form ADV, ERAs are not required to complete certain portions of Form ADV Part 1, including information about succession, certain client and AUM data, participation or interest in client transactions, and custody. In addition, ERAs are subject to SEC examination. While the SEC has historically indicted that it does not expect its staff to regularly conduct compliance examinations of ERAs,12 ERAs should still be prepared for SEC compliance reviews.

NOTES

1 Investment Advisers Act of 1940, § 2.01(11).

2 Regulation of Investment Advisers by the U.S. Securities and Exchange Commission (March 2013).

3 An Internet Investment Adviser is investment adviser that: (i) provides investment advice to all of its clients exclusively through an interactive website, except that the investment adviser may provide investment advice to fewer than 15 clients through other means during the preceding twelve months; (ii) maintains, in an easily accessible place, for a period of not less than five years from the filing of a Form ADV that includes a representation that the adviser is eligible to register with the Commission under the Internet Investment Adviser exception, a record demonstrating that it provides investment advice to its clients exclusively through an interactive website in accordance with the limits in (i); and (iii) does not control, is not controlled by, and is not under common control with, another investment adviser that registers with the Commission under the relying adviser exception solely in reliance on the registration of Internet Investment Adviser as its *registered adviser*.

4 "Qualifying investment" means: (i) an equity security issued by a qualifying portfolio company that has been acquired directly by the private fund from the qualifying portfolio company; (ii) any equity security issued by a qualifying portfolio company in exchange for an equity security issued by the qualifying portfolio company described in (i); or (iii) any equity security issued by a company of which a qualifying portfolio company is a majority-owned subsidiary, as defined in section 2(a)(24) of the Investment Company Act of 1940, or a predecessor, and is acquired by the private fund in exchange for an equity security described in (i) or (ii).

5 "Qualifying portfolio company" means any company that: (i) at the time of any investment by the private fund, is not reporting or foreign traded and does not control, is not controlled by or under common control with another company, directly or indirectly, that is reporting or foreign traded; (ii) does not borrow or issue debt obligations in connection with the private fund's investment in such company and distribute to the private fund the proceeds of such borrowing or issuance in exchange for the private fund's investment; and (iii) is not an investment company, a private fund, an issuer that would be an investment company but for the exemption provided by Investment Company Act Section 3(c)(7)or a commodity pool.

6 See https://www.sec.gov/divisions/investment/noaction/2012/aba011812.htm.

7 Investment Advisers Act of 1940, § 203(b)(7).

8 15 U.S.C. § 80b-6(1).

9 17 CFR § 275.206(4)-5; SEC Charges Four Investment Advisers for Pay-To-Play Violations Involving Campaign Contributions (Sep. 15, 2022).

10 17 CFR § 275.204-2.

11 *Mabon, Nugent & Co.*, Exchange Act Rel. No. 19424, 47 SEC 862, 867 (1983), quoted in Investment Advisers Act Release No. 1889, File No. 3-10261 (Aug, 3, 2000).

12 Rules Implementing Amendments to the Investment Advisers Act of 1940, Exchange Act Release No. IA-3221 (June 22, 2011), at text accompanying n.188 ("[W]e do not anticipate that our staff will conduct compliance examinations of [exempt reporting advisers] on a regular basis") and n.188 ("Our staff will conduct cause examinations where there are indications of wrongdoing, *e.g.,* those examinations prompted by tips, complaints, and referrals.").

FOR MORE INFORMATION

If you would like to receive more information on the topics covered in this document, please contact the author, Jim Audette, or any member of our Investment Management Group.

Scott Anderson, Partner
312.845.3834
scott_anderson@chapman.com

Kelley Bender, Partner
312.845.3439
bender@chapman.com

Richard Coyle, Partner
312.845.3724
rcoyle@chapman.com

Walter Draney, Partner
312.845.3273
draney@chapman.com

Felice Foundos, Partner
312.845.3864
foundos@chapman.com

Van Holkeboer, Partner
312.845.3401
holkeboer@chapman.com

Jonathan Koff, Partner
312.845.2978
koff@chapman.com

Amy Olshansky, Partner
312.845.3701
olshan@chapman.com

Suzanne Russell, Partner
312.845.3446
russell@chapman.com

Brannon Andrews, Sr Counsel
312.845.2954
bandrews@chapman.com

James Borrasso, Associate
312.845.3854
borrasso@chapman.com

Kathryn Maass, Associate
312.845.2984
maass@chapman.com

Matthew Stuart, Associate
312.845.3848
mstuart@chapman.com

Juan M. Arciniegas, Partner
312.845.3710
arciniegas@chapman.com

Matthew Boba, Partner
312.845.2951
mattboba@chapman.com

Robert Criswell, Partner
312.845.2982
criswell@chapman.com

Daniel Fallon, Partner
312.655.3721
fallon@chapman.com

Brian Free, Partner
312.845.3017
free@chapman.com

Helen Kim, Partner
312.845.3456
helenkim@chapman.com

Joel Laub, Partner
312.655.2529
jlaub@chapman.com

Barry Pershkow, Partner
202.478.6492
pershkow@chapman.com

Morrison Warren, Partner
312.845.3484
warren@chapman.com

Kimberly Bischoff, Sr Counsel
980.495.7305
bischoff@chapman.com

Connor Chapin, Associate
312.845.3715
clchapin@chapman.com

Myles O'Kelly, Associate
312.845.2974
okelly@chapman.com

Jim Audette, Partner
312.845.3421
audette@chapman.com

Kelly Pendergast Carr, Partner
312.845.3720
kcarr@chapman.com

Curtis Doty, Partner
212.655.2512
cdoty@chapman.com

Eric Fess, Partner
312.845.3781
fess@chapman.com

William Hermann, Partner
312.845.3895
whermann@chapman.com

Roy Kim, Partner
312.845.3850
roykim@chapman.com

John Martin, Partner
312.845.3474
jjmartin@chapman.com

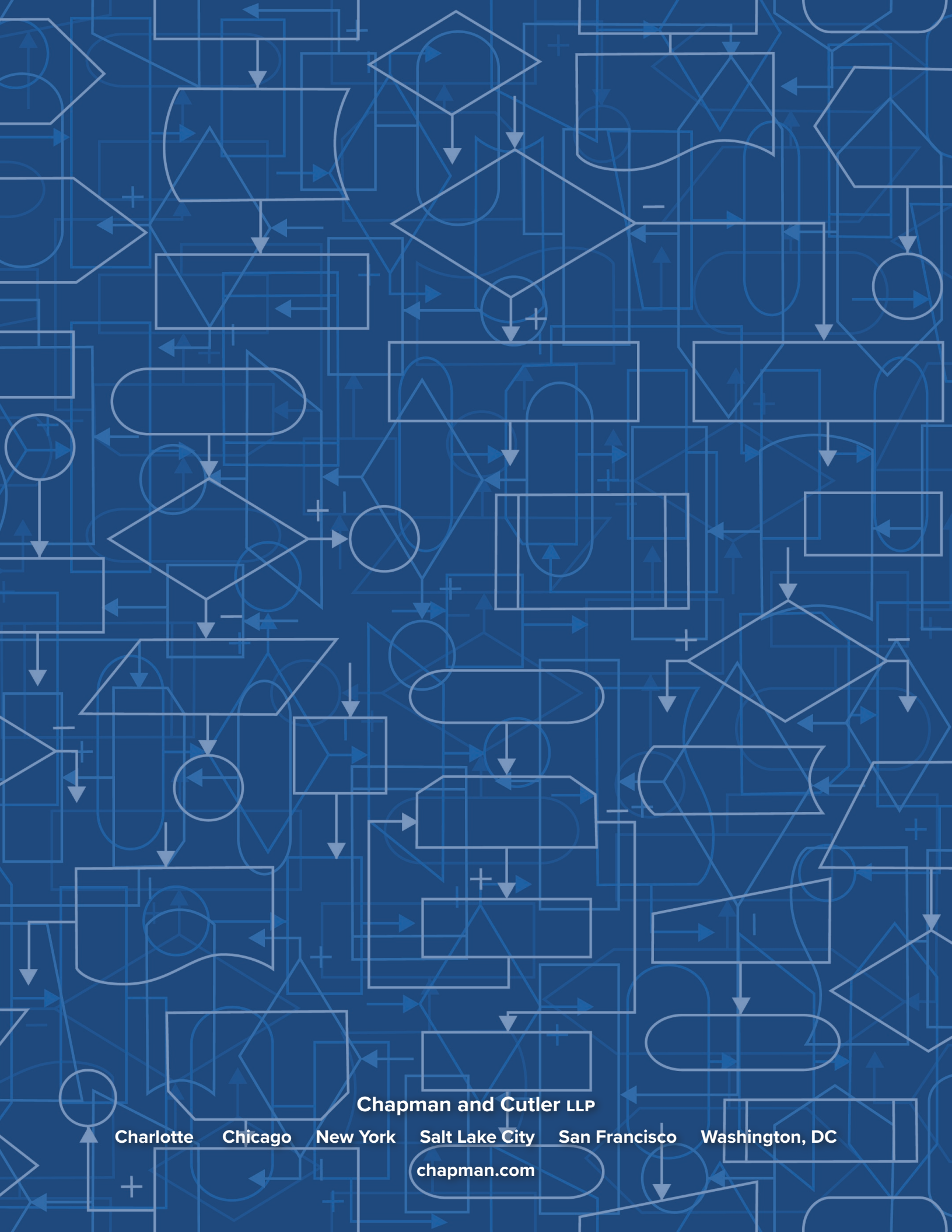
Kate Poorbaugh, Partner
312.845.3447
poorbaug@chapman.com

Matthew Wirig, Partner
312.845.3432
mwirig@chapman.com

Simona Ilies, Sr Counsel
312.845.3457
silies@chapman.com

Amreen Gill, Associate
312.845.3717
agill@chapman.com

Sean Snider, Associate
312.845.3876
ssnider@chapman.com



Chapman and Cutler LLP

Charlotte Chicago New York Salt Lake City San Francisco Washington, DC

chapman.com