

660:11-7-17. Registration exemption for investment advisers to qualifying private funds.

(a) Definitions. For purposes of this regulation, the following definitions shall apply:

(1) "Private fund" means an issuer that would be an investment company, as defined in section 3 of the 1940 Act, but for section 3(c)(1) or 3(c)(7) of the 1940 Act, as provided in Section 202(a)(29) of the Advisers Act.

(2) "Private fund adviser" means an investment adviser who provides advice solely to one or more qualifying private funds and has assets under management in the United States of less than \$150,000,000.

(3) "Qualifying private fund" means a private fund that meets the definition of a qualifying private fund in SEC Rule 203(m)-1, 17 C.F.R. 275.203(m)-1. The term may include an issuer that may be treated as a private fund for purposes of the exemption provided by SEC Rule 203(m)-1, 17 C.F.R. 275.203(m)-1.

(b) Exemption for private fund advisers. A private fund adviser shall be exempt from the registration requirements of Section 1-403 if the private fund adviser satisfies each of the following conditions:

(1) neither the private fund adviser nor any of its advisory affiliates are subject to a disqualification as described in Rule 262 of SEC Regulation A, 17 C.F.R. § 230.262;

(2) the private fund adviser files with the state as a notice each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4; and

(3) the private fund adviser pays the fees specified in Section 1-612.A.5.

(c) Federal covered investment advisers. If a private fund adviser is registered with the Securities and Exchange Commission, the adviser shall not be eligible for this exemption and shall comply with the state notice filing requirements applicable to federal covered investment advisers in Section 1-405.

(d) Investment adviser representatives. A person is exempt from the registration requirements of Section 1-404 if he or she is employed by or associated with an investment adviser that is exempt from registration in this state pursuant to this rule and does not otherwise act as an investment adviser representative.

(e) Electronic filing. The report filings described in paragraph (b)(2) above shall be made electronically through the IARD. A report shall be deemed filed when the report and the fee required by Section 1-612.A.5 are filed and accepted by the IARD on the state's behalf.