

SECURITIES AND EXCHANGE COMMISSION

Release No. IA-3305; File No. S7-42-11; October 24, 2011

Order Approving Filing Fees for Exempt Reporting Advisers and Private Fund Advisers

Section 204(c) of the Investment Advisers Act of 1940 (“Advisers Act”) authorizes the Securities and Exchange Commission (“Commission”) to require investment advisers to file applications and other documents through an entity that the Commission designates and to pay the reasonable costs associated with such filings. The Commission recently adopted a new rule requiring exempt reporting advisers to file portions of Form ADV on a periodic basis.¹ As with registered advisers, exempt reporting advisers must file Form ADV through the Investment Adviser Registration Depository (“IARD”), which is operated by the Financial Industry Regulatory Authority (“FINRA”).

In addition, the Commission recently proposed a new rule that would require any adviser registered with the Commission and managing one or more private funds (a “private fund adviser”) to file proposed Form PF on a periodic basis.² On September 30, 2011, the Commission issued notice of its determination that, if the Form PF proposal is

¹ “Exempt reporting advisers” are investment advisers relying on the exemption from registration under section 203(l) or 203(m) of the Advisers Act. The Commission adopted new rule 204-4 on June 22, 2011. *See Rules Implementing Amendments to the Investment Advisers Act of 1940*, Investment Advisers Act Release No. IA-3221 (June 22, 2011), 76 FR 42950 (July 19, 2011) (“Implementing Adopting Release”).

² The Commission proposed new rule 204(b)-1 on January 26, 2011. *See section II.C of Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF*, Investment Advisers Act Release No. 3145 (January 26, 2011), 76 FR 8068 (February 11, 2011) (“Form PF Proposing Release”). “Private fund” is defined in section 202(a)(29) of the Advisers Act.

adopted, FINRA will develop and maintain the filing system for Form PF as an extension of the existing IARD (the “Notice”).³

Following discussions with Commission staff, FINRA recommended a schedule of filing fees for exempt reporting advisers and private fund advisers.⁴ With respect to exempt reporting advisers, FINRA recommended a filing fee of \$150 for each initial and annual report on Form ADV. With respect to private fund advisers, FINRA recommended filing fees of \$150 for the proposed quarterly filings of Form PF and \$150 for the proposed annual filings.⁵ In the Notice, the Commission indicated its intent to approve filing fees for these filings consistent with these recommendations.

The Notice also explained that the fee for exempt reporting advisers filing Form ADV would apply starting with the date on which this order is published in the Federal Register and, if the Form PF proposal is adopted, the fees applicable to private fund advisers would apply starting with the effective date of rule 204(b)-1.

The Notice gave interested persons an opportunity to request a hearing and stated that an order approving these filing fees would be issued unless a hearing were ordered. No request for a hearing has been filed, and no hearing has been ordered.

³ See *Approval of Filing Fees for Exempt Reporting Advisers and Private Fund Advisers*, Investment Advisers Act Release No. 3297 (Sept. 30, 2011), 76 FR 62100 (Oct. 6, 2011).

⁴ FINRA letter dated September 28, 2011, available at <http://www.sec.gov/rules/other/2011/finraletter092811-pferafees.pdf>.

⁵ Under the proposal, advisers managing \$1 billion or more in hedge fund assets, combined liquidity fund and registered money market fund assets or private equity fund assets would file Form PF on a quarterly basis. All other private fund advisers would file on an annual basis. See sections II.B and II.C of the Form PF Proposing Release.

IT IS THEREFORE ORDERED, pursuant to Section 204(c) of the Advisers Act, that:

For initial reports and annual updating amendments on Form ADV filed on or after October 28, 2011, the filing fee due from exempt reporting advisers is \$150.

For quarterly reports on Form PF filed on or after the effective date of rule 204(b)-1 under the Advisers Act, the filing fee due from private fund advisers is \$150.

For annual reports on Form PF filed on or after the effective date of rule 204(b)-1 under the Advisers Act, the filing fee due from private fund advisers is \$150.

By the Commission.

Elizabeth M. Murphy
Secretary