

I understand that the deadline for comments on the proposed model rule on private fund adviser registration and exemption was January 24. I hope you will consider the following two comments, one of which is a technical clarification.

1. Paragraph (a.)(3) makes it a condition to the exemption that the adviser file with the state a copy of each report and amendment that an exempt reporting adviser would be required to file under Rule 204-4, along with a consent to service of process. The requirement to file the report, amendments and consent to service should not be a condition to the exemption but should rather be a separate requirement of the rule carrying appropriate penalties. The consequence of inadvertent failure to file the report, amendments and consent to service should not be the loss of the exemption and civil and administrative liabilities for failure to register if the person is someone who, but for that failure, would not have been required to register. Those penalties can be significantly disproportionate to paperwork oversight and, in the case of private rights of action, may not be within the power of the securities administrator to control.

2. Paragraph (c.) should be revised to make clear that a person employed by or associated with an exempt adviser is exempt only with respect to his or her employment or association with the exempt adviser. The following suggested revision to paragraph (c.) would serve that purpose:

"c. an investment adviser representative employed by or associated with an adviser that is exempt from registration in this state pursuant to paragraph (a.) above is exempt from the registration requirements of Section XXX with respect to his or her employment or association with that adviser."

These comments are solely my own and not necessarily those of Goodwin Procter LLP or its clients.

Thank you for your consideration.

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