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STATE CORPORATION COMMISSION

DIVISION OF SECURITIES AND RETAIL FRANCHISING

STATEMENT OF POLICY REGARDING REGULATION OF CERTAIN INVESTMENT ADVISORS MANAGING PRIVATE EQUITY AND VENTURE CAPITAL FUNDS ("PRIVATE ADVISORS")

The Director of the Division of Securities and Retail Franchising ("Division") of the Virginia State Corporation Commission ("Commission"), in recognition of changes in federal laws and regulations governing investment advisors adopted under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act")[1], and in response to the resulting regulatory gaps as recognized and addressed by other member states of the North American Securities Administrators Association ("NASAA"), has determined that it is appropriate and in the public interest to issue a Statement of Policy addressing the registration of investment advisors and their investment advisor representatives managing private equity and venture capital funds operating within the Commonwealth of Virginia.

Background

The Dodd-Frank Act made significant changes to the regulation of investment advisors and their funds. In addition to placing formally federal covered investment advisors under state regulation and registration requirements, the Dodd-Frank Act repealed federal registration exemptions for certain investment advisors managing private equity and venture capital funds ("private advisors"). Specifically, the Dodd-Frank Act repealed Section 203(b)(3) of the Investment Advisers Act of 1940 ("40 Act"), which had granted an exemption from registration to those investment advisors having fewer than fifteen (15) clients and whom did not hold themselves out to the general public as investment advisors.

The Dodd-Frank Act also instructed the U.S. Securities and Exchange Commission ("SEC") to promulgate rules to implement the new legislation. On June 22, 2011, the SEC issued final rules implementing the Dodd-Frank Act's required changes. Among these final rules, the SEC promulgated Rule 203-1(e), which grants an extension to private advisors formerly exempt from registration under Section 203(b)(3) of the 40 Act until March 30, 2012 ("extension period"). Without Rule 203-1(e), these private advisors would have been required to register with the SEC by July 21, 2011.

The delay of the implementation of the new federal regulatory requirements left a gap in regulatory authority over these private advisors under state law, which would require these firms to register. A number of investment advisory firms operating in Virginia have requested that the Division address the regulatory gap. Furthermore, several NASAA member states have taken regulatory action either through the implementation of new regulations or the issuance of no-action letters in response to the regulatory gap. Accordingly, the Division has chosen to similarly respond.

[1] Public Law No. 111-203

Rule 21 VAC 5-80-210 of the Commission's Rules and Regulations governing investment advisors expressly excludes private advisors who are exempt under Section 203(b)(3) of the 40 Act from the definition of "investment advisor" under the Virginia Securities Act ("Act"), § 13.1-501 *et seq.*, Code of Virginia. As a result, private advisors have been exempt from state registration under the Act. Following repeal of Section 203(b)(3) under the Dodd-Frank Act, however, such exemption from state registration in Virginia under Rule 21 VAC 5-80-210 will no longer be available to private advisors after July 21, 2011.

Consequently, private advisors relying on SEC Rule 203-1(e) for exemption from federal registration during the extension period would nevertheless be subject to state registration under the Act if they engaged in investment advisory business within the Commonwealth. To ensure business continuity for such private advisors and to facilitate the transition from exempt status to registrant status during the extension period provided under SEC Rule 203-1(e), the Division will seek to have the Commission, following a period of publication and comment, issue regulations intended to take effect on or about September of 2011, to address this issue.

In the interim, until such rules are promulgated by the Commission, the Director of the Division is issuing the following policy regarding the Division's position on enforcement of the Act against private advisors who choose not to register in the Commonwealth by July 21, 2011.

Policy

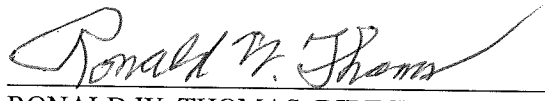
Until such time as the Commission promulgates a rule to address the regulatory gap, the Division will not institute enforcement action against any investment advisor or its investment advisor representative for failing to register whose only client is one (or more) of the following:

a corporation, general partnership, limited partnership, limited liability company, trust or other legal organization that:

(i) has assets of not less than $5,000,000 and;

(ii) receives investment advice based on its investment objectives rather than the individual investment objectives of its shareholders, partners, limited partners, members or beneficiaries, provided the investment advisor was exempt from registration pursuant to Section 203(b)(3) of the Investment Advisors Act of 1940 prior to July 21, 2011, and the investment advisor is subject to SEC Rule 203-1(e) granting an extension to investment advisors formerly exempt from registration under Section 203 (b)(3) of the Investment Advisers Act of 1940 until March 30, 2012, whom would have been required to register with the SEC by July 21, 2011.

Dated at Richmond, Virginia, this 19th day of July, 2011.



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