Dodd-Frank
Exempt Reporting Advisers

Keiter
Your Opportunity Advisors

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As part of final rules adopted in June 2011 under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), many advisers to private pooled investment vehicles (funds) that were previously exempt were now required to register with the SEC by March 30, 2012. Two of the primary exemptions to registration include the Venture Capital exemption and the $150 million exemption (small fund exemption). This article provides a brief overview of the primary provisions of those two exemptions.

Venture Capital Exemption:

There are certain specific requirements for funds to be able to avoid registering under the Venture Capital exemption. These include:

- holding no more than 20% of the fund's capital commitments in non-qualifying investments
- not incurring leverage in excess of 15% of the fund's capital contributions and un-called capital commitments
- representing itself to investors and the public as pursuing a venture capital strategy
- not being registered under the Investment Company Act of 1940

There are certain additional grandfathering provisions for funds that do not meet all of the above criteria.

Small Fund Exemption:

Advisers to private funds that have less than $150 million in total assets under management also qualify for an exemption for SEC registration. Calculation of the value of the adviser's assets under management is in accordance with the instructions to Form ADV.

If an adviser qualifies for one of the two above exemptions to SEC registration, it should be emphasized that the adviser may still be required to perform exempt adviser reporting, which is submitted to the SEC, and parts will be available to the public.

Should you have any questions related to this topic, feel free to contact Jay D. Nelson, CPA, Business Assurance and Advisory Services Senior Manager, for further clarification. Phone: 804-418-6274

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