02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

032 OFFICE OF SECURITIES

Chapter 517: LICENSING EXEMPTION FOR INVESTMENT ADVISERS TO PRIVATE FUNDS

Summary: This chapter exempts investment advisers to certain private funds from state licensing requirements.

SECTION 1. Definitions.

For the purposes of this rule, the following definitions shall apply:

1. **3(c)(1) Fund.** "3(c)(1) fund" means a qualifying private fund that is eligible for the exclusion from the definition of an investment company under Section 3(c)(1) of the Investment Company Act of 1940, 15 U.S.C. § 80a-3(c)(1) (2025).

2. **IARD.** "IARD" means the internet-based Investment Adviser Registration Depository.

3. **Private fund adviser.** "Private fund adviser" means an investment adviser who provides advice solely to one or more qualifying private funds.

4. **Qualifying private fund.** "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, Private fund adviser exemption (2025).

5. **SEC.** "SEC" means the United States Securities and Exchange Commission.

6. **Value of primary residence.** "Value of primary residence" means the fair market value of a person's primary residence, reduced by the amount of debt secured by the property up to its fair market value.

7. **Venture capital fund.** "Venture capital fund" means a private fund that meets the definition of a venture capital fund in SEC Rule 203(l)-1, 17 C.F.R. § 275.203(l)-1, Venture capital fund defined (2025).

SECTION 2. Exemption for private fund advisers.

Subject to the additional requirements of Section 3 below, a private fund adviser shall be exempt from the licensing requirements of the Maine Uniform Securities Act, 32 M.R.S. § 16403 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 an event that would disqualify an issuer under Rule 506(d)(1) of SEC Regulation D, 17 C.F.R. § 230.506(d)(1), Exemption for limited offers and sales without regard to dollar amount of offering (2025); and

2. The private fund adviser files with the State of Maine Office of Securities each report and amendment thereto that an exempt reporting adviser is required to file with the SEC pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4, Reporting by exempt reporting advisers (2025).

SECTION 3. Additional requirements for private fund advisers to certain 3(c)(1) funds.

In order to qualify for the exemption described in Section 2 of this rule, a private fund adviser who advises at least one (3)(c)(1) fund that is not a venture capital fund shall, in addition to satisfying each of the conditions specified in Section 2, subsections (1) and (2), comply with the following requirements:

1. The private fund adviser shall advise only those 3(c)(1) funds (other than venture capital funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who, after deducting the value of the primary residence from the person's net worth, would each meet the definition of a qualified client in SEC Rule 205-3, 17 C.F.R. § 275.205-3, Exemption from the compensation prohibition of section 205(a)(1) for investment advisers (2025), at the time the securities are purchased from the issuer;

2. At the time of purchase, the private fund adviser shall disclose the following in writing to each beneficial owner of a 3(c)(1) fund that is not a venture capital fund:

   A. all services, if any, to be provided to individual beneficial owners;

   B. all duties, if any, the investment adviser owes to the beneficial owners; and

   C. any other material information affecting the rights or responsibilities of the beneficial owners.

3. The private fund adviser shall obtain on an annual basis audited financial statements of each 3(c)(1) fund that is not a venture capital fund, and shall deliver a copy of such audited financial statements to each beneficial owner of the fund.

SECTION 4. Federal covered investment advisers.

If a private fund adviser is registered with the SEC, 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 the Maine Uniform Securities Act, 32 M.R.S. § 16405.

SECTION 5. Investment adviser representatives.

A person is exempt from the licensing requirements of Maine Uniform Securities Act, 32 M.R.S. § 16404 if he or she is employed by or associated with an investment adviser that is exempt from licensing in this state pursuant to this rule and does not otherwise act as an investment adviser representative.

SECTION 6. Electronic filing.

The report filings described in Section 2(2) above shall be made electronically through the IARD. A report shall be deemed filed when the report is filed and accepted by the IARD on behalf of the State of Maine Office of Securities.

SECTION 7. Waiver authority with respect to statutory disqualification.

Section 2(1) shall not apply upon a showing of good cause and without prejudice to any other action of the Administrator, if the Administrator determines that it is not necessary under the circumstances that an exemption be denied.

SECTION 8. Location of Incorporated Matter.

Copies of the materials incorporated by reference into this rule are available at no charge from the State of Maine Office of Securities.

STATUTORY AUTHORITY: 32 M.R.S. §§ 16403(2)(C), 16404(2)(B), 16605(1)

EFFECTIVE DATE:

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