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SEC Requires Hedge Fund Managers to Register as Investment Advisers

James J. Frolik

Introduction

The SEC recently adopted a new rule that requires most investment advisers that manage more than $30,000,000 and manage "private funds" to register as investment advisers with the SEC by February 1, 2006. The adopting release (Advisers Act Release No. 2333 [December 2, 2004]), including the dissent by two SEC Commissioners, the proposing release (Advisers Act No. 2266 [July 20, 2004]), and public comments on the proposed rules are available at www.sec.gov/rules/final.shtml.

The registration requirement applies whether an adviser is currently unregistered or is registered as an investment adviser with a state securities authority or as a commodity trading adviser or commodity pool operator with the Commodity Futures Trading Commission. An adviser with at least $25,000,000 but less than $30,000,000 under management may (but is not required to) register with the SEC. An investment adviser with less than $25,000,000 of assets under management remains subject to state investment adviser regulation, and is prohibited from registering with the SEC, even if that adviser has 15 or more clients (exceptions from this prohibition are provided for advisers to mutual funds, pension consultants and certain other types of advisers).

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