



SHARTSIS FRIESE LLP

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San Francisco, California 94111-3598

July 8, 2016

VIA E-MAIL

To Our Investment Adviser Clients and Other Friends

Re: SEC Raises “Qualified Client” Net Worth Threshold Effective August 15, 2016

The U.S. Securities and Exchange Commission (the “SEC”) has raised the net worth threshold under the “performance fee rule” from \$2,000,000 to \$2,100,000. This increase, which the SEC announced in [Release No. IA-4421](#), adjusts for inflation the net worth test used to determine whether a client or investor is a “qualified client” pursuant to Rule 205-3 under the Investment Advisers Act of 1940.

Currently, Rule 205-3 allows investment advisers to charge a performance-based fee or special profit allocation to a “qualified client,” defined as an individual or entity that:

- Has at least \$1,000,000 in assets managed by the investment adviser; or
- At the time the investment management contract is entered into, either (1) has a net worth (including, for individuals, assets held jointly with a spouse) of more than \$2,000,000 (exclusive of the person’s primary residence) or (2) is a “qualified purchaser” as defined in section 2(a)(51)(A) of the Investment Company Act of 1940 (the “ICA”).

Effective as of August 15, 2016, the dollar amount of the net worth test described above in clause (1) will increase from \$2,000,000 to \$2,100,000. This change will affect separate account clients and investment funds that rely on ICA section 3(c)(1). This change is irrelevant for investment funds that rely on ICA section 3(c)(7).

This increased net worth requirement will not be applied retroactively or to parties that enter into separate account agreements or invest in 3(c)(1) funds before August 15, 2016. Assuming that those investors’ net worth exceeded \$2,000,000 at the time they entered into such agreements or invested in such funds, the adviser may charge performance-based fees or allocations on additional capital they contribute to such accounts or funds on or after August 15, 2016, even if such investors’ net worth does not exceed \$2,100,000 at the time of such additional contribution.

Investment advisers that charge performance-based fees or allocations to 3(c)(1) investment funds or separate account clients should contact us immediately to update their documents and forms to reflect this new threshold.

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For further assistance, please contact [John Broadhurst](#), [Geoff Haynes](#), [Chris Rupright](#), [Carolyn Reiser](#), [Neil Koren](#), [Jim Frolik](#), [Christina Hamilton](#), [Joan Grant](#), [Lyn Roberts](#), [Anthony Caldwell](#), [David Suozzi](#) or [Kathryn Miller](#).

Previous letters to our investment advisory clients and friends and additional discussions of topics relevant to private fund managers, investment advisers and private investment funds can be found at our insights page: www.sflaw.com/blog/investment-funds-advisers-insights.

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