



# California Corporate & Securities Law

## **Commissioner Takes Emergency Action To Put More Time On The Clock For Rule 260.204.9**

Posted In [Investment Advisers](#)

6/17/2011

Yesterday, Commissioner [Preston DuFauchoard](#) started the process for adding six months to the lifespan of Rule 260.204.9. The Commissioner took this action in light of the imminent expiration of the “private adviser” exemption set forth in Section 203(b)(3) of the Investment Advisers Act of 1940. The Dodd–Frank Act eliminates this exemption effective July 21, 2011.

### **SEC To Adopt Final Invest Adviser Act Rules**

The Securities and Exchange Commission has yet to promulgate final rules implementing the soon-to-be-effective changes to the Investment Advisers Act. This has put state securities regulators in a bind because they want to adopt rules that are consistent with the SEC’s action. At long last, the SEC has [announced](#) that it will consider final rules at next week’s meeting meeting of the Commission.

### **What The Commisisoner Must Do Now**

The Commissioner’s announcement is the first step in the administrative process. Pursuant to Government Code § 11346.1(a)(2), he must give five working days notice before submitting his proposed emergency action to the [Office of Administrative Law](#). The OAL then must allow interested persons five calendar days (from posting on its website) to submit comments. See Government Code § 11349.6(b). Here are the Commissioner’s [notice](#), [emergency rule text](#), and [finding of emergency](#).

### **You Can Comment**

You may submit comments on proposed emergency regulations to the OAL Reference Attorney by mail to 300 Capitol Mall, Suite 1250, Sacramento, California 95814, by fax to (916) 323–6826, or by e-mail to [staff@oal.ca.gov](mailto:staff@oal.ca.gov).

### **Another 180 Days**

If the OAL approves the regulation (it must take action within 10 days of filing), the regulations will be filed with the [Secretary of State’s office](#). The emergency regulations will then be effective for 180 days. During that time, the Commissioner will need to complete the formal rulemaking process.

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