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SEC Proposes Definition of Family Office Under Investment Advisers Act

On October 12, 2010, the Securities and Exchange Commission (the "SEC") proposed a new rule relating to the exclusion of a "family office" from the requirements imposed under the Investment Advisers Act of 1940 (the "Advisers Act"). Traditionally, these family offices have been exempted from the registration requirements set forth under the Advisers Act provided they had fewer than 15 clients. However, in an effort to regulate hedge funds and other private fund advisers, the Dodd-Frank Wall Street Reform and Consumer Protection Act eliminated this blanket exemption based on a limited number of clients and, in its place, instructed the SEC to promulgate a new definition of family office for exemption purposes under the Advisers Act.

The proposed rule generally defines a family office as any firm that (i) provides investment advice only to family members, as defined by such rule; (ii) is wholly owned and controlled by family members; and (iii) does not hold itself out to the public as an investment adviser.

The SEC is seeking public comment on this proposed rule with such comment being due to the SEC by November 18, 2010. Miller & Martin's Investment Management Practice Group is actively working with our clients and other industry leaders to provide the SEC comment on this important proposed rule.

Should you wish to coordinate with us in this effort, please contact Scott McGinness at smcginness@millermartin.com, Lance Bridgesmith at lpbridgesmith@millermartin.com, Clint Cromwell at ccromwell@millermartin.com or any other member of [Miller & Martin's Investment Management Practice Group](#).

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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