A PRACTICAL GUIDE FOR CALCULATING REGULATORY ASSETS UNDER MANAGEMENT ON PART 1A FORM ADV

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By Bettina Eckerle | July 30, 2011

In the SEC Release entitled "Rules Implementing Amendments to the Investment Advisers Act", on June 22, 2011, the SEC adopted revisions to Part 1A of Form ADV in order to implement a uniform method for calculating "regulatory assets under management" that will be used to determine:

- Whether an investment adviser is eligible to register with the SEC;
- Regulatory assets under management to be reported on Part 1 of Form ADV; and
- The availability of the new exemptions from SEC registration created by Dodd-Frank.

Note: The SEC noted the regulatory purpose of the reporting requirement in Part 1A and noted that the amount disclosed in Part 1A may be different from the amount of assets under management disclosed to clients in Part 2.

General Rule

Under the new instructions to Part 1A, investment advisers must include in their regulatory assets under management portfolios for which they provide continuous and regular supervisory or management services, regardless as to whether:

- The assets are family or proprietary assets; or
- The assets are being managed without the adviser receiving compensation, or are assets of foreign clients;

Also, the adviser must calculate the assets on a gross basis, without subtracting outstanding debt or other unpaid liabilities.

The adviser also must use the market value of the assets, or if the market value is not available, the fair value.

Private Advisers

In calculating regulatory assets under management for private funds, an investment adviser must:

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- Include the value of any private fund assets over which it exercises continuous and regular supervisory and management services, regardless of the nature of the asset held by the fund;

- Include the amount of any uncalled capital commitments made to the fund by investors;

- Use the market value of private fund assets, or the fair market value is the market value is unavailable. If the fund's governing documents provide for a specific process for calculating the fair value, for example if the general partner has discretion over the determination, then the adviser may rely on such process for purposes of the regulatory asset calculation, if it has done so consistently and in good faith. If the adviser uses GAAP or some other basis for financial reporting purposes, then the adviser must use the same basis.

For more details, see: http://www.sec.gov/rules/final/2011/ia-3221.pdf

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