

## A PRACTICAL GUIDE FOR FAMILY OFFICES: EXEMPTION UNDER THE ADVISERS ACT

By Bettina Eckerle, July 15, 2011

The SEC has adopted a family office exclusion from the Investment Advisers Act of 1940 (the "Advisers Act"), excluding single family offices from all Advisers Act regulation. To qualify, the family office must only serve "family members," key employees of the family office itself, and charities funded solely by the family. The SEC defines "family member" as any lineal descendant of a common ancestor (including spouses) up to 10 generations. The SEC compromised with commenters by allowing the family to choose and change the common ancestor. Multi-family offices are excluded from

the exemption. The rule allows a one-year transition period for involuntary transfers to non-family members and requires pooled investment vehicles to be owned and operated solely for the benefit of family clients.

Family offices that do not qualify for the exclusion must file an ADV by February 14, 2012 to ensure registration by March 30, 2012. If a family office does not qualify, the SEC may still grant exemptive relief. Accordingly, there is time to restructure to meet the requirement or get exemptive relief, but the planning should start soon.

# ECKERLE LAW

Eckerle Law

41 Madison Ave, 31st Floor

New York, NY 10010

[bettina@eckerlelawyers.com](mailto:bettina@eckerlelawyers.com)

1 646 202 2518

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