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November 16, 2010

Elizabeth M. Murphy, Esq.
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Proposed Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940
File Number S7-25-10

Dear Ms. Murphy:

We represent a significant number of clients that are family offices. On behalf of these clients, we are submitting this letter on Proposed Rule 202(a)(11)(G)-1 (the "Proposed Rule"). Our comments are intended to express our views and the views of our clients with respect to the Proposed Rule and to give the Commission additional information, including information about the arrangements that have historically been used to form and operate family offices for the benefit of the members of a family.

We would like to emphasize that many of our client's family offices have existed for generations. The structure chosen for each family office may have been based on legal, income tax, gift tax, estate planning, and charitable giving considerations that were deemed important at that time. Some of our clients' trusts were drafted and some charities were formed before the Investment Advisers Act of 1940 (the "Advisers Act") was written. We respectfully request that the Commission not insist on unnecessary restrictions in the Proposed Rule that would force family offices to modify or even unwind arrangements that may have been in place for generations. In certain cases, for example with respect to irrevocable trusts, the family office may be legally incapable of changing structures that were put in place years before.

COMMENTS

I. Founders and Clients

Founder

As the Commission clearly recognizes, the proper definition of "founder" is critical to the family office exemption. However, it is often not the person who created the wealth that forms the family office. Often it is a later generation that establishes the family office. Just as importantly, the family office may be created by several persons, each of whom is a lineal descendant of one common family member. In addition, sometimes the trustees of a number of related family trusts will create a family office.

In order to address different facts and circumstances, we would respectfully suggest that it would make sense to leave the term "founder" undefined in order to allow flexibility in determining who is deemed to be the founder. This will provide some needed flexibility to the definition and allow each family to define more appropriately who is the founder. In the alternative, if the Commission feels it is necessary to define the term "founder", we would recommend founders be defined as lineal descendants of a common ancestor. This would also add significant flexibility to the definition.

Related to the proper definition of founder, and as discussed later in this letter, some of our clients have also expressed concern with the requirement that the family office be "owned" by family members. Because some family offices are divisions of family-run companies or have vehicles interposed between the individuals and the family office, we believe that this requirement should also allow for indirect ownership.

Family Members

Our clients support the inclusion of adopted children, step children, and spousal equivalents. Given the complexity of modern families, this would only seem appropriate. For the same reason, our clients would also support the inclusion of siblings of the founder and his or her spouse and descendants in the definition of "family client." Finally, given that the Commission stated on page 12 of the Release that the founder of a single family office could be a much younger person, we believe the term "family member" should also include the individual, his or her parents and grandparents, and siblings of each such person. It is common for such members of a family to all be included in a family office, and we do not believe that the inclusion of such additional individuals would be subject to abuse.

Former Family Members

Although our clients support the proposal to allow former family members to retain any investments made through a family office, our clients do not believe the restriction on making any "new" investments through the family office is necessary. The business and family affairs of the family office may require the former spouse or family member to be an active participant for various reasons, including in particular if a former spouse's children are still members of the family office. Our clients believe that a family office should be permitted to make the decision as to whether to include a former spouse as a client of the family office.

The term "former family members" is also not clear. One interpretation of the definition is that a widow or widower is still the spouse of the deceased individual, and thus is not a "former family member." However, it could also be argued that the term "former family member" does not include widows and widowers even though the widow or widower continues to clearly be part of the family. We respectfully request that the Commission clarify that a widow or widower is in fact still considered to be a "family member" for purposes of the Proposed Rule.

Family Trusts, Charitable Organizations, and Other Family Entities

Our clients strongly support including family trusts, charitable organizations, and other family entities in the definition of "family clients." However, we believe the requirements outlined in the Proposed Rule are too strict and are not consistent with traditional methods of estate planning and charitable giving. For example, and possibly most importantly, under the Proposed Rule each family trust or charitable entity would have to be established and funded "exclusively" by the family members. Therefore, a family office would not be allowed to give investment advice to a charity as to which members of the family were not the exclusive donors. This does not seem reasonable given that this provision would prohibit even one dollar of contributions from a non-family source. Family offices often provide investment advice to trusts that have non-family funding and that may have been established long ago and cannot be amended to comply with the proposed narrow test. We urge the Commission to amend the Proposed Rule to adopt language simply requiring the foundation, trust or charitable organization be established or controlled directly or indirectly by a family client.

This revision would permit a family to seek contributions to the charity from non-family members and would permit the charity to receive such contributions.

Key Employees

Our clients support (i) the inclusion of certain key employees in the definition of "family clients", (ii) the use of the "knowledgeable employee" concept from Rule 205-3(d)(iii) and Rule 3c-5 under the Investment Company Act of 1940 and (iii) allowing such key employees to effect their co-investments with the family members in any manner, including through trusts and other entities. Our clients support restricting additional investment by such employees after their employment terminates and the provision not requiring the liquidation or transfer of such investments when such key employee leaves. However, our clients believe that the 12-month initial restriction on investments by new employees is unnecessary and may have the effect of deterring prospective key employees from accepting offers of employment where investments are expected to occur during the first twelve-months of employment.

Involuntary Transfers

Our clients have expressed concern that the four month limitation on having clients other than family clients is insufficient, given that some of the types of investments in which family offices invest are illiquid, or the ability to redeem, such as interests in a hedge fund or private equity funds, is restricted by contract. Family offices should not have to liquidate assets at fire sale prices in order to satisfy this requirement. We would recommend that the condition be revised to state that the family office be required to transfer such assets as soon as it is both legally and practically feasible, and a short grace period of at least one year should be added to allow the family office to dispose of illiquid assets in an orderly manner.

No Fee Charged or No Securities Advice Given

Some of our family office clients provide investment advice to vehicles that would not meet the definition of family client. However, in some cases, such vehicles are either not charged any fee for such advice or the advice that is given does not relate primarily to investments in securities. We would appreciate it if the Commission would confirm that such relationships will not cause the family office exemption to become unavailable.

II. Ownership and Control

The proposed definition, based on the concept of "owned and controlled," does not adequately reflect the variety of organizational arrangements that already exist with family offices, and which in many instances cannot be changed. For example, in many instances, a family office or its parent company is wholly owned by a trust which has family and non-family (*e.g.*, charitable remainder trusts) beneficiaries and has family and non-family (*e.g.*, corporate trustee or trusted adviser) trustees. In addition, requiring that an entity be wholly-owned and controlled (directly or indirectly) is not necessary given that the public policy reason for

excluding family offices from almost all of the provisions of the Advisers Act is that they are being operated for the benefit of the members of a family. Even if minority interests are held by non-family members, this does not change the basic not-for-profit family-oriented mission. We urge the Commission to revise the "owned and controlled" phrase to read (i) owned, directly or indirectly by, (ii) controlled, directly or indirectly by, or (iii) operated for the primary benefit of the family members.

III. Multi-Family Offices

We would expect that, based on the approach that the family office definition is a broad term meant to encompass advisers that act for families and that are not run primarily for profit for the employees, the Commission should be willing to amend the proposed rule to permit the exclusion from registration of a family office that consists solely of two business partners (and their descendants) whose business affairs have been combined as if they were siblings for an extended period of time. In both instances, the family office is not a commercial enterprise, its "clients" are limited to members of the family, and there is no one who is a client of the family office whose interests need to be protected by the Commission through the applicability of the registration provisions of the Advisers Act. We have clients that are structured in the manner described in this paragraph and it would be very difficult if not impossible to restructure to avoid registration.

IV. Pension Plans and Deferred Compensation

A number of family offices or their affiliates sponsor and administer pension plans and/or deferred compensation plans solely for the benefit of employees of the family office and their affiliates. We understand that the SEC staff has informally taken the position in reviewing exemptive applications filed under the Advisers Act that a pension plan or deferred compensation plan is a "client". We believe that a family office that is giving investment advice to its own pension plan, almost always for no compensation, does not satisfy the definition of "investment adviser" as provided in the Advisers Act because it is not giving investment advice to "others" for compensation. We believe that the omission of pension plans and deferred compensation plans from the definition of "family client" means that the Commission believes that a pension plan or deferred compensation plan is not a "client," and therefore a pension plan or deferred compensation plan sponsored or administered by a family office could receive investment advice from that family office without being required to register under the Advisers Act. We request that the Commission confirm in the final rule release that this is the correct interpretation. We hope that it was not the intent of the Commission to exclude employees of family offices from these types of compensation arrangements.

V. Previously Issued Exemptive Orders

Our clients believe that each of the family offices that previously received exemptive orders from the Commission should be allowed to decide either to continue to rely on the

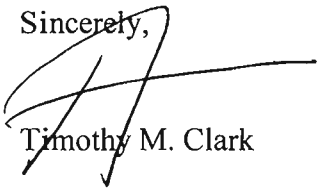
exemptive order that it received or decide to rely on the Proposed Rule. Our clients believe that it would be unfair to require a particular family office operating under an existing order to make substantial changes to its structure or operations simply because the prior exemptive order may not contain all of the conditions and restrictions in the Proposed Rule.

CONCLUSION

As currently drafted, we believe that the Proposed Rule will satisfy the requirements of very few family offices. We hope that the Commission will seriously consider our comments so that we can avoid filing what are probably unnecessary individual applications for exemptive orders under new Section 202(a)(11)(G).

Thank you for this opportunity to express our views and those of our clients.

Sincerely,



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