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

RE: Comments on Proposed Rule 202(a)(11)(G)-1, Release No. IA-3098, SEC File No. S7-25-10 Regarding "Family Offices"

Dear Ms. Murphy:

We appreciate the opportunity to comment on the above-referenced rule (the "Proposed Rule") proposed by the Securities and Exchange Commission ("SEC") in order to comply with Section 409 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), which authorized the SEC to promulgate a rule defining those single family offices that will be excluded from the definition of an "investment adviser" pursuant to the Dodd-Frank Act and, hence, not subject to registration or regulation under the Investment Advisers Act of 1940 (the "Advisers Act").

On behalf of the single family offices that we represent, we respectfully submit the following comments concerning the Proposed Rule and request that the SEC incorporate such comments into the final version of the Rule.

1. Founders

By defining the term "founders" as "[a] natural person and his or her spouse or spousal equivalent for whose benefit the family office was established and subsequent spouse of such individuals," the Proposed Rule appears to try to account for the fact that single family offices may be created be the individual responsible for creating the family's wealth, or by such person's descendants, trusts, or operating businesses during or after such person's life.

Nonetheless, the Proposed Rule's definition of "founders" is not comprehensive enough to cover the facts relating to founding of every family office. Rather than trying to create a comprehensive definition that may be underinclusive and difficult to administer, we suggest that the Proposed Rule be revised to allow each family office to choose or designate its founder. Allowing families to choose their founders for purposes of a statutory provision is not without precedent in other contexts. For example, a family is allowed to designate their common ancestor for purposes of provision that treats members of a family as a single shareholder for purposes of the 100 shareholder limit for Subchapter S corporations. *See* Section 1361(c)(1) of the Internal Revenue Code of 1986, 26 U.S.C. § 1361(c)(1).

2. Family Member.

Alternatively, if the term founder is not revised as suggested above, the definition of "family member" should be expanded in order to ensure that members of a family are not excluded.

Under the Proposed Rule, a "family member" includes founders, their lineal descendants (including adopted children and stepchildren) as well as the spouses and spousal equivalents of such lineal descendants, parents of founders, siblings of founders and the spouses, spousal equivalents, and lineal descendants (including adopted children and stepchildren) of such siblings as well as the spouses and spousal equivalents of such lineal descendants.

While we agree with the Proposed Rule's inclusion of parents, siblings, adoptees and stepchildren, spouses, and spousal equivalents as being reflective of the modern conception of family, we recommend that the definition of family member be expanded to include the grandparents of founders, and the siblings, spouses, spousal equivalents, and lineal descendants of such grandparents. Doing so will ensure that persons often thought of and included in family, such as aunts, uncles, great aunts and great uncles, and cousins are included within the definition of family member.

3. Former Family Members.

We urge the SEC to reconsider the limit on new investments by former family members. In the event of divorce, a spouse and the former family may desire that he or she continue to work with the family office, not only with respect to prior investments, but also new investments, because his or her children or trusts for their benefit or entities which they own directly or indirectly will continue to be advised by the family office. Allowing each family office the option to share its resources with a former spouse will provide family offices with needed flexibility, will eliminate potential interpretive issues presently associated with the Proposed Rule's present distinction between old and new investments by former family members, and is consistent with the legislative intent of the Advisers Act with respect to family offices.

4. Involuntary Transfers.

We believe that the Proposed Rule should be revised to allow more time for the family to transfer assets to a non-family member in the event of an involuntary transfer, particularly given the probability that the family office may hold illiquid assets that are difficult to transfer quickly. We recommend that Proposed Rule be revised to provide for such transfers as soon as legally and reasonably practical, or in the alternative, within one year, rather than four months.

5. Trusts, Charitable Organizations and Family Entities.

The Proposed Rule provides that the following are included in the definition of a "family client:" (i) any trust or estate existing for the sole benefit of one or more family clients, (ii) any charitable foundation, organization or trust funded exclusively by one or more family members

of former family members, and (iii) any entity wholly owned and controlled (directly or indirectly) exclusively by, and operated for the sole benefit of, one or more family clients.

The exclusivity requirements of the above definitions are too limiting and are inconsistent with traditional tax, estate planning, and wealth distribution concepts. For example, a trust or estate that has public charity as a contingent remainder beneficiary would not qualify as a family client as defined by the Proposed Rule. Similarly, the family may control a charitable foundation that receives charitable contributions from non-family members in furtherance of its charitable purposes, but such a foundation would not be a family client under the Proposed Rule. Also, one or more family clients may control an entity that owns an operating business that has provided for equity grants or options to key employees of such entity (not the family office), in which case the entity would not qualify as a family client.

Accordingly, we recommend that these definitions be expanded to include: (i) any trust or estate established primarily for the benefit of one or more family clients, (ii) any charitable foundation, organization or trust controlled (directly or indirectly) by one or more family clients, and (iii) any entity owned and controlled (directly or indirectly) and operated primarily for the benefit of, one or more family clients. Expanding these definitions will reflect the broad array of family clients that family offices advise and facilitate traditional tax, estate, and wealth transfer planning without inappropriately expanding the family office exclusion to non-family members.

6. Ownership and Control.

The Proposed Rule provides that a family office must be wholly owned and controlled (directly or indirectly) by family members. While some family offices are structured in this fashion others are not. In recognition of the diverse manner in which family offices may be organized and operated, we suggest that the definition of "family office" be modified to read "(i) owned (directly or indirectly), (ii) controlled (directly or indirectly), or (iii) operated for the primary benefit of family clients."

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We appreciate the opportunity to comment on the Proposed Rule as well as the SEC's consideration of such comments. If you questions about the above comments, please contact me.

Very truly yours,

Randal J. Kaltenmark