

February 8, 2011

Good afternoon –

I'm writing in relation to rule proposals outlined in Release No. IA-3110. The comments below are focused solely on the proposed transition between federal and state registration.

- 1) As mentioned in the release, the SEC currently allows for a 180-day window for firms to withdraw their federal registrations and obtain all necessary state registrations if they are no longer eligible for federal registration based on a decline in AUM below the current \$25mil qualifying level. That 180-day window has proven to be sufficient in cases that I have handled for my clients in the past but those cases were few and far between.
- 2) IA-3110 estimates roughly 4,100 firms needing to transition from federal to state registration and I am fearful that the states, who are in general, much slower to process applications than the SEC, will be bombarded with new applications and the currently proposed 90-day window in IA-3110 is not going to be anywhere near enough time for the states to be able to get all of their reviews/approvals done by the 19 Oct. 2011 deadline.
- 3) Based on our experience of processing new state applications for registration, initial applications with the various state regulatory bodies can run (on average) at least 30-45 days under normal conditions. That's the average time at just about any given time throughout the calendar year. If the actual number of transitioning firms is anywhere near the 4,100 figure that is estimated, I would fully expect to see backlogs with the states lasting well into 2012 (assuming the current 90-day proposed grace period is all the time that firms are afforded to transition their registrations).
- 4) Another issue that could be significant for many of my clients is the impact of having to pay all new initial registration fees to the states when they just paid 2011 renewals late last year. Is the SEC attempting to encourage the states to forego or at least prorate any of their initial registration fees as a result of firms that paid their 2011 notice filing renewal fees but now face all new registration fees at the state level. Those figures per firm can vary from a few hundred dollars to several thousand dollars. I would request that the SEC make every effort to lobby the states to work with firms to either accept the 2011 notice filing fees in lieu of new registration fees or at least try to get the states to prorate the initial registration fees for transitioning firms.
- 5) Perhaps the timing of the transition from federal to state registration could be centered around renewals for 2012. My thinking is that you still keep the 21 June 2011 filing date for the ADV update to show the current AUM. Based on that ADV update, if a firm is not at or above the \$100mil AUM mark, they could begin the registration process with the states but that new registration process could be handled over the course of the remainder of 2011 so that the processing of it could be done in 2011 such that if everything is in good order for the application and it's ready for approval by the state by 31 Dec. 2011, it could be set for automatic approval by the state on 1 Jan. 2012. In other words, let all the firms/states go ahead and start the review/processing of all the new applications in the second half of 2011 so that when 2012 rolls around, everything will hopefully be done and all of the new state registrations will automatically pick up as effective on 1 Jan. 2012. This would avoid paying new registration fees for less than half of the 2011 calendar year and then force the firms to turn around and pay 2012 renewals in Nov. during the normal renewal processing time frame.

I would be happy to discuss any of my comments and would welcome a call to do so.

Scott Reckamp  
**Capital Markets Compliance®**, LLC