

## Securities and Exchange Commission

## § 275.203A-2

adviser, within the meaning of section 203(b)(3) of the Act (15 U.S.C. 80b-3(b)(3)), solely because such investment adviser participates in a non-public offering of interests in a limited partnership under the Securities Act of 1933.

[62 FR 28132, May 22, 1997]

### § 275.203A-1 Eligibility for SEC registration; switching to or from SEC registration.

(a) *Eligibility for SEC registration—(1) Threshold for SEC registration—\$30 million of assets under management.* If the State where you maintain your principal office and place of business has enacted an investment adviser statute, you are not required to register with the Commission, unless:

(i) You have assets under management of at least \$30,000,000, as reported on your Form ADV (17 CFR 279.1); or

(ii) You are an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1).

(2) *Exemption for investment advisers having between \$25 and \$30 million of assets under management.* If the State where you maintain your principal office and place of business has enacted an investment adviser statute, you may register with the Commission if you have assets under management of at least \$25,000,000 but less than \$30,000,000, as reported on your Form ADV (17 CFR 279.1). This paragraph (a)(2) shall not apply if:

(i) You are an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 to 80a-64); or

(ii) You are eligible for an exemption described in § 275.203A-2 of this chapter.

NOTE TO PARAGRAPHS (a)(1) AND (a)(2): Paragraphs (a)(1) and (a)(2) of this section together make SEC registration optional for certain investment advisers that have between \$25 and \$30 million of assets under management.

(b) *Switching to or from SEC registration—(1) State-registered advisers—switching to SEC registration.* If you are registered with a State securities authority, you must apply for registration with the Commission within 90 days of filing an annual updating amendment to your Form ADV report-

ing that you have at least \$30 million of assets under management.

(2) *SEC-registered advisers—switching to State registration.* If you are registered with the Commission and file an annual updating amendment to your Form ADV reporting that you no longer have \$25 million of assets under management (or are not otherwise eligible for SEC registration), you must file Form ADV-W (17 CFR 279.2) to withdraw your SEC registration within 180 days of your fiscal year end (unless you then have at least \$25 million of assets under management or are otherwise eligible for SEC registration). During this period while you are registered with both the Commission and one or more State securities authorities, the Investment Advisers Act of 1940 and applicable State law will apply to your advisory activities.

[65 FR 57449, Sept. 22, 2000]

### § 275.203A-2 Exemptions from prohibition on Commission registration.

The prohibition of section 203A(a) of the Act (15 U.S.C. 80b-3a(a)) does not apply to:

(a) *Nationally recognized statistical rating organizations.* An investment adviser that is a nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F), and (H) of § 240.15c3-1 of this chapter.

(b) *Pension Consultants.* (1) An investment adviser that is a “pension consultant,” as defined in this section, with respect to assets of plans having an aggregate value of at least \$50,000,000.

(2) An investment adviser is a pension consultant, for purposes of paragraph (b) of this section, if the investment adviser provides investment advice to:

(i) Any employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (“ERISA”) [29 U.S.C. 1002(3)];

(ii) Any governmental plan described in section 3(32) of ERISA (29 U.S.C. 1002(32)); or

(iii) Any church plan described in section 3(33) of ERISA (29 U.S.C. 1002(33)).

(3) In determining the aggregate value of assets of plans, include only