

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

In the Matter of:

**Registration Exemption for Investment
Advisers to Private Funds**

Docket No. 2020-7-16

AMENDED ORDER

With respect to Sections 30-14-403(b)(4) and 30-14-605 under the Idaho Uniform Securities Act (2004) ("IUSA"), the Director of the Idaho Department of Finance hereby issues this Amended Order exempting investment advisers to private funds from registration as an investment adviser.

1. For purposes of this Amended Order, the following definitions shall apply:

- (a) "Value of primary residence" means the fair market value of a person's primary residence, subtracted by the amount of debt secured by the property up to its fair market value.
- (b) "Private fund adviser" means an investment adviser who provides advice solely to one or more qualifying private funds.
- (c) "Qualifying private fund" means a private fund that meets the definition of a qualifying private fund in SEC Rule 203(m)-1, 17 C.F.R. 275.203(m)-1.
- (d) "3(c)(1) fund" means a qualifying private fund that is eligible for the exclusion from the definition of an investment company under section 3(c)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-3(c)(1).
- (e) "Venture capital fund" means a private fund that meets the definition of a venture capital fund in SEC Rule 203(1)-1, 17 C.F.R. § 275.203(1)-1.

2. Exemption for private fund advisers. Subject to the additional requirements of item 3 below, a private fund adviser will be exempt from the registration requirements of Section 30-14-403 of the IUSA if the private fund adviser satisfies each of the following conditions:

- (a) neither the private fund adviser nor any of its advisory affiliates are subject to an event that would disqualify an issuer under Rule 506(d)(1) of SEC Regulation D, 17 C.F.R. § 230.506(d)(1);
- (b) the private fund adviser files with the state each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4.

3. Additional requirements for private fund advisers to certain 3(c)(1) funds. In order to qualify for the exemption described in paragraph 2 of this Amended Order, a private fund adviser who advises at least one (3)(c)(1) fund that is not a venture capital fund shall, in addition

to satisfying each of the conditions specified in items 2(a) and 2(b), comply with the following requirements:

- (a) The private fund adviser will advise only those 3(c)(1) funds (other than venture capital funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who, after deducting the value of the primary residence from the person's net worth, would each meet the definition of a qualified client in SEC Rule 205-3, 17 C.F.R. § 275.205-3, at the time the securities are purchased from the issuer;
 - (b) At the time of purchase, the private fund adviser shall disclose the following in writing to each beneficial owner of a 3(c)(1) fund that is not a venture capital fund:
 - (i.) all services, if any, to be provided to individual beneficial owners;
 - (ii.) all duties, if any, the investment adviser owes to the beneficial owners; and
 - (iii.) any other material information affecting the rights or responsibilities of the beneficial owners.
 - (c) The private fund adviser shall obtain on an annual basis audited financial statements of each 3(c)(1) fund that is not a venture capital fund and deliver a copy of such audited financial statements to each beneficial owner of the fund.
 - (i.) If a private fund adviser begins operations more than 180 days into a fiscal year, the private fund adviser need not obtain an audited financial statement of each 3(c)(1) fund that is not a venture capital fund and deliver a copy of such audited financial statements to each beneficial owner of the fund for that initial fiscal year, provided that the financial statements of each 3(c)(1) fund that is not a venture capital fund for the fiscal year immediately succeeding this period is supplemented by, or includes, a financial audit of the initial, partial fiscal year period.
 - (ii.) However, section 3(c)(i) does not apply to a private fund adviser who is a registered investment adviser and where such registered investment adviser seeks to avoid the “surprise examination” under the custody rule.
- 4. Federal covered investment advisers.** If a private fund adviser is registered with the Securities and Exchange Commission, the adviser shall not be eligible for this exemption and will comply with the state notice filing requirements applicable to federal covered investment advisers in Section 30-14-405 of the IUSA.
- 5. Investment adviser representatives.** A person is exempt from the registration requirements of Section 30-14-404 of the IUSA if he or she is employed by or associated with an investment adviser that is exempt from registration in this state pursuant to this Amended Order and does not otherwise act as an investment adviser representative.
- 6. Electronic filing.** The report filings described in item 2(6) above shall be made electronically through the IARD. A report shall be deemed filed when the report is filed and accepted by the IARD on the state's behalf.
- 7. Transition.** An investment adviser who becomes ineligible for the exemption provided by this Amended Order must comply with all applicable laws and rules requiring registration or notice

filing within ninety (90) days from the date the investment adviser's eligibility for this exemption ceases.

8. Waiver Authority with Respect to Statutory Disqualification. Item 2(a) will not apply upon a showing of good cause and without prejudice to any other action of the Department, if the Director determines that it is not necessary under the circumstances that an exemption be denied.

9. Grandfathering for investment advisers to 3(c)(I) funds with non-qualified clients. An investment adviser to a 3(c)(I) fund (other than a venture capital fund) that has one or more beneficial owners who are not qualified clients as described in item 3(a) is eligible for the exemption contained in item 2 of this Amended Order if the following conditions are satisfied:

- (a) the subject fund existed prior to the effective date of the original Order, Docket No. 2020-7-16, issued on October 19, 2020 (hereafter “Original Order”)
- (b) as of the effective date of the Original Order, the subject fund ceases to accept beneficial owners who are not qualified clients, as described in 3(a) of the Original Order;
- (c) the investment adviser discloses in writing the information described in paragraph 3(b) to all beneficial owners of the fund; and
- (d) as of the effective date of the Original Order, the investment adviser delivers audited financial statements as required by item 3(c) of this Amended Order.

IT IS SO ORDERED This 23 day of March, 2026.




SALVADOR CRUZ
Director
Idaho Department of Finance

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

In the Matter of:)	Docket No. 2020-7-16
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Registration Exemption for Investment Advisers to Private Funds)	ORDER
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With respect to Section 30-14-403(b)(4) under the Idaho Uniform Securities Act (2004) (“IUSA”), the Director of the Idaho Department of Finance hereby issues this Order exempting investment advisers to private funds from registration an investment adviser.

1. For purposes of this Order, the following definitions shall apply:

- (a) “Value of primary residence” means the fair market value of a person’s primary residence, subtracted by the amount of debt secured by the property up to its fair market value.
- (b) “Private fund adviser” means an investment adviser who provides advice solely to one or more qualifying private funds.
- (c) “Qualifying private fund” means a private fund that meets the definition of a qualifying private fund in SEC Rule 203(m)-1, 17 C.F.R. 275.203(m)-1.
- (d) “3(c)(1) fund” means a qualifying private fund that is eligible for the exclusion from the definition of an investment company under section 3(c)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-3(c)(1).
- (e) “Venture capital fund” means a private fund that meets the definition of a venture capital fund in SEC Rule 203(l)-1, 17 C.F.R. § 275.203(l)-1.

2. Exemption for private fund advisers. Subject to the additional requirements of item 3 below, a private fund adviser will be exempt from the registration requirements of Section 30-14-403 of the IUSA if the private fund adviser satisfies each of the following conditions:

- (a) neither the private fund adviser nor any of its advisory affiliates are subject to an event that would disqualify an issuer under Rule 506(d)(1) of SEC Regulation D, 17 C.F.R. § 230.506(d)(1);
- (b) the private fund adviser files with the state each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4.

3. Additional requirements for private fund advisers to certain 3(c)(1) funds. In order to qualify for the exemption described in paragraph 2 of this Order, a private fund adviser who advises at least one (3)(c)(1) fund that is not a venture capital fund shall, in addition to satisfying each of the conditions specified in items 2(a) and 2(b), comply with the following requirements:

- (a) The private fund adviser will advise only those 3(c)(1) funds (other than venture capital funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who, after deducting the value of the primary residence from the person's net worth, would each meet the definition of a qualified client in SEC Rule 205-3, 17 C.F.R. § 275.205-3, at the time the securities are purchased from the issuer;
- (b) At the time of purchase, the private fund adviser shall disclose the following in writing to each beneficial owner of a 3(c)(1) fund that is not a venture capital fund:
 - (i) all services, if any, to be provided to individual beneficial owners;
 - (ii) all duties, if any, the investment adviser owes to the beneficial owners; and
 - (iii) any other material information affecting the rights or responsibilities of the beneficial owners.
- (c) The private fund adviser shall obtain on an annual basis audited financial statements of each 3(c)(1) fund that is not a venture capital fund and deliver a copy of such audited financial statements to each beneficial owner of the fund.

4. Federal covered investment advisers. If a private fund adviser is registered with the Securities and Exchange Commission, the adviser shall not be eligible for this exemption and will comply with the state notice filing requirements applicable to federal covered investment advisers in Section 30-14-405 of the IUSA.

5. Investment adviser representatives. A person is exempt from the registration requirements of Section 30-14-404 of the IUSA if he or she is employed by or associated with an investment adviser that is exempt from registration in this state pursuant to this Order and does not otherwise act as an investment adviser representative.

6. Electronic filing. The report filings described in item 2(b) above shall be made electronically through the IARD. A report shall be deemed filed when the report is filed and accepted by the IARD on the state's behalf.

7. Transition. An investment adviser who becomes ineligible for the exemption provided by this Order must comply with all applicable laws and rules requiring registration or notice filing within ninety (90) days from the date the investment adviser's eligibility for this exemption ceases.

8. Waiver Authority with Respect to Statutory Disqualification. Item 2(a) will not apply upon a showing of good cause and without prejudice to any other action of the Department, if the Director determines that it is not necessary under the circumstances that an exemption be denied.

9. Grandfathering for investment advisers to 3(c)(1) funds with non-qualified clients. An investment adviser to a 3(c)(1) fund (other than a venture capital fund) that has one or more beneficial owners who are not qualified clients as described in item 3(a) is eligible for the exemption contained in item 2 of this Order if the following conditions are satisfied:

- (a) the subject fund existed prior to the effective date of this Order;
- (b) as of the effective date of this Order, the subject fund ceases to accept beneficial owners who are not qualified clients, as described in 3(a) of this Order;

- (c) the investment adviser discloses in writing the information described in paragraph 3(b) to all beneficial owners of the fund; and
- (d) as of the effective date of this Order, the investment adviser delivers audited financial statements as required by item 3(c).

IT IS SO ORDERED This 19th day of October, 2020.





PATRICIA R. PERKINS
Director
Idaho Department of Finance