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Client Alert: SEC Increases Performance Fee Net Worth Threshold for Qualified Clients

Effective August 15, 2016, the net worth threshold for qualified clients under Rule 205-3 is increased from \$2 million to \$2.1 million.

If you have advisory agreements or subscription agreements that require a client or investor to be a “qualified client” as defined in Rule 205-3 under the Investment Advisers Act of 1940, as amended (the “Advisers Act”), any reference to a net worth of \$2,000,000 should be increased to \$2,100,000 by no later than August 15.

Rule 205-3 allows an adviser to charge its clients and investors performance fees if one of the specified dollar amount tests is satisfied. These tests are based on either:

Section 418 of the Dodd-Frank Act requires the Securities and Exchange Commission (SEC) to adjust the dollar amounts in these tests for inflation every 5 years beginning in 2011. For the required 2016 adjustment, the SEC has issued an order revising the net worth test to \$2.1 million. The SEC is not changing the assets-under-management test.

As a result, as of the August 15, 2016 effective date, the assets-under-management test will remain at \$1 million and the net worth test will be \$2.1 million. Under Rule 205-3, the new net worth threshold generally does not

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apply retroactively to agreements entered into before
the effective date of August 15, 2016.