

Reminder: Increased “Qualified Client” Dollar Amount Tests to Take Effect August 16, 2021

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Effective August 16, 2021, the increased dollar amount thresholds for “qualified clients” as defined under Rule 205-3 of the Investment Advisers Act of 1940, as amended (the “Advisers Act”) will go into effect.

Currently, an investment adviser registered with the Securities and Exchange Commission (the “SEC”) may only charge a performance fee in respect of investors who:

- i. Have at least \$1 million in assets under management with the adviser;
- ii. Have a net worth of more than \$2.1 million (in the case of a natural person, excluding the value of such natural person’s primary residence and indebtedness secured by such residence);
- iii. Are qualified purchasers, as defined in Section 2(a)(51)(A) of the Investment Company Act of 1940 (the “Investment Company Act”); or
- iv. Are “knowledgeable employees” of the investment adviser, as defined in Rule 3c-5 under the Investment Company Act.

The new thresholds increase the assets under management and net worth tests to **\$1.1 million** and **\$2.2 million**, respectively.

These increases are being made pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, which amended Section 205(e) of the Advisers Act to require the SEC to adjust these thresholds every five years for the effects of inflation. Clients that entered into advisory agreements prior to the effective date in reliance on the lower tests will be “grandfathered” in under the prior thresholds.

SEC-registered advisers to separately-managed accounts and private funds that rely on the exception to the definition of an investment company provided in Section 3(c)(1) of the Investment Company Act will generally be affected by the increased thresholds. Certain states, including Massachusetts, also follow the SEC’s performance fee eligibility test with respect to advisers located in the state, meaning certain advisers not registered with the SEC may also be subject to the increased thresholds.

Investment advisers should review their agreements and offering documents to determine whether any updates are needed to conform to the new qualified client tests.

A copy of the SEC’s order may be found [here](#).

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