

**§ 275.203(b)(3)-1**

**17 CFR Ch. II (4-1-01 Edition)**

filing requirements of this chapter are prohibitively burdensome or expensive.

(5) *Small business.* You are a “small business” for purposes of this section if you are required to answer Item 12 of Form ADV (17 CFR 279.1) and checked “no” to each question in Item 12 that you were required to answer.

NOTE TO PARAGRAPH (B): NASDR will charge you an additional fee covering its cost to convert to electronic format a filing made in reliance on a continuing hardship exemption.

[65 FR 57449, Sept. 22, 2000; 65 FR 81738, Dec. 27, 2000]

**§ 275.203(b)(3)-1 Definition of “client” of an investment adviser.**

PRELIMINARY NOTE TO § 203(b)(3)-1 This rule is a safe harbor and is not intended to specify the exclusive method for determining who may be deemed a single client for purposes of section 203(b)(3) of the Act.

(a) *General.* For purposes of section 203(b)(3) of the Act (15 U.S.C. 80b-3(b)(3)), the following are deemed a single client:

(1) A natural person, and:

(i) Any minor child of the natural person;

(ii) Any relative, spouse, or relative of the spouse of the natural person who has the same principal residence;

(iii) All accounts of which the natural person and/or the persons referred to in this paragraph (a)(1) are the only primary beneficiaries; and

(iv) All trusts of which the natural person and/or the persons referred to in this paragraph (a)(1) are the only primary beneficiaries;

(2)(i) A corporation, general partnership, limited partnership, limited liability company, trust (other than a trust referred to in paragraph (a)(1)(iv) of this section), or other legal organization (any of which are referred to hereinafter as a “legal organization”) that receives investment advice based on its investment objectives rather than the individual investment objectives of its shareholders, partners, limited partners, members, or beneficiaries (any of which are referred to hereinafter as an “owner”); and

(ii) Two or more legal organizations referred to in paragraph (a)(2)(i) of this section that have identical owners.

(b) *Special Rules.* For purposes of this section:

(1) An owner must be counted as a client if the investment adviser provides investment advisory services to the owner separate and apart from the investment advisory services provided to the legal organization, *Provided, however,* that the determination that an owner is a client will not affect the applicability of this section with regard to any other owner;

(2) An owner need not be counted as a client of an investment adviser solely because the investment adviser, on behalf of the legal organization, offers, promotes, or sells interests in the legal organization to the owner, or reports periodically to the owners as a group solely with respect to the performance of or plans for the legal organization’s assets or similar matters;

(3) A limited partnership is a client of any general partner or other person acting as investment adviser to the partnership;

(4) Any person for whom an investment adviser provides investment advisory services without compensation need not be counted as a client; and

(5) An investment adviser that has its principal office and place of business outside of the United States must count only clients that are United States residents; an investment adviser that has its principal office and place of business in the United States must count all clients.

(c)  *Holding Out.* Any investment adviser relying on this section shall not be deemed to be holding itself out generally to the public as an investment 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,