

Kansas Administrative Regulations

Department of Insurance Assistant Commissioner, Securities Division

Article 14.—Investment Advisers and Investment Adviser Representatives

81-14-11. Kansas private adviser exemption.

(a) Exemption from registration. An investment adviser shall be exempt from the registration requirements of K.S.A. 17-12a403, and amendments thereto, if both of the following requirements are met:

(1) The investment adviser shall meet each of the following conditions:

(A) Maintain its principal place of business in Kansas;

(B) provide investment advice solely to fewer than 15 clients;

(C) not hold itself out generally to the public as an investment adviser; and

(D) not act as an investment adviser to any investment company registered pursuant to section 8 of the investment company act of 1940, 15 U.S.C. § 80a-8, as adopted by reference in K.A.R. 81-2-1, or a company that has elected and has not withdrawn its election to be a business development company pursuant to section 54 of the investment company act of 1940, 15 U.S.C. § 80a-54, as adopted by reference in K.A.R. 81-2-1.

(2) Neither the investment adviser nor any of its advisory affiliates or associated investment adviser representatives shall be subject to a disqualification provision as described in rule 262 of SEC regulation A, 17 C.F.R. 230.262, as adopted by reference in K.A.R. 81-2-1.

(b) Notice filing. Each investment adviser that qualifies for exemption under subsection (a) shall be subject to or exempt from filing a notice with the administrator as follows:

(1) Notice filing requirement. Each investment adviser that manages assets of no more than \$25 million on December 31 each year shall complete the identifying information required by item 1 of form ADV, part 1A and file the printed form with the

administrator on or before February 1 of the following year. No fee shall be required with the notice filing required by this subsection.

(2) Exemption from notice filing requirement.

(A) Each investment adviser that manages assets in excess of \$25 million and is registered with the SEC shall be exempt from the notice filing requirements of K.S.A. 17-12a405, and amendments thereto, and of paragraph (1) of this subsection.

(B) Each investment adviser that manages assets in excess of \$25 million, is an exempt reporting adviser, and files reports with the IARD system pursuant to SEC rule 204-4, 17 C.F.R. 275.204-4, as adopted by reference in K.A.R. 81-2-1, shall be exempt from the notice filing requirements of paragraph (1) of this subsection.

(c) Exemption for investment adviser representatives. An investment adviser representative shall be exempt from the registration requirements of K.S.A. 17-12a404, and amendments thereto, if the individual meets the following requirements:

(1) Is employed by or associated with an investment adviser that meets the exemption requirements under subsection (a);

(2) is not subject to a disqualification as described in rule 262 of SEC regulation A, 17 C.F.R. 230.262; and

(3) does not otherwise act as an investment adviser representative.

(d) Transition. Each investment adviser or investment adviser representative who becomes ineligible for the exemption specified in this regulation shall comply with the registration or notice filing requirements under the act within 90 days after the date of ineligibility.

(Authorized by K.S.A. 17-12a605(a); implementing K.S.A. 17-12a403(b)(3), 17-12a404(b)(2), and 17-12a405(b)(3); effective Oct. 25, 2013; amended Jan. 4, 2016.)

***** Authenticated Kansas Administrative Regulation *****