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LEGISLATIVE ACTION

Senate

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House

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04/28/2023 10:17 AM

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Senator Gruters moved the following:

Senate Amendment (with directory and title amendments)

Between lines 972 and 973

insert:

(22) (a) As used in this subsection, the term:

1. "Advisory affiliate" has the same meaning as in the Glossary of Terms to Form ADV, the uniform application for investment adviser registration, 17 C.F.R. s. 279.1.

2. "Exempt reporting adviser" has the same meaning as in the Glossary of Terms to Form ADV, the uniform application for investment adviser registration, 17 C.F.R. s. 279.1.



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12 3. "Private fund adviser" means an investment adviser who
13 provides advice to solely one or more qualifying private funds.

14 4. "Qualifying private fund" means:

15 a. A private fund that meets the definition of the term
16 "qualifying private fund" in the Securities and Exchange
17 Commission Rule 203(m)-1, 17 C.F.R. s. 275.203(m)-1;

18 b. A private fund that meets the definition of the term
19 "venture capital fund" in the Securities and Exchange Commission
20 Rule 203(l)-1, 17 C.F.R. s. 275.203(l)-1; or

21 c. A "venture capital operating company" as defined in 29
22 C.F.R. s. 2510.3-101(d) adopted by the United States Department
23 of Labor under the Employee Retirement Income Security Act of
24 1974.

25 5. "3(c)(1) fund" means a qualifying private fund that is
26 eligible for the exclusion from the definition of the term
27 "investment company" under s. 3(c)(1) of the Investment Company
28 Act of 1940, 15 U.S.C. s. 80a-3(c)(1), as amended.

29 (b) Subject to the additional requirements of paragraph
30 (c), a private fund adviser is exempt from the registration
31 requirements of this section if the private fund adviser
32 satisfies the following conditions:

33 1. Neither the private fund adviser nor any of its advisory
34 affiliates are subject to an event that would disqualify an
35 issuer under Securities and Exchange Commission Rule 506(d)(1)
36 of Regulation D, 17 C.F.R. s. 230.506(d)(1); and

37 2. The private fund adviser files with the office each
38 report and amendment thereto that an exempt reporting adviser is
39 required to file with the Securities and Exchange Commission
40 pursuant to the Securities and Exchange Commission Rule 204-4,



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41 17 C.F.R. s. 275.204-4.

42 (c) In order to qualify for the exemption from the
43 registration requirements of this section, a private fund
44 adviser who advises at least one (3)(c)(1) fund that is not a
45 venture capital fund shall, in addition to satisfying the
46 conditions specified in subparagraphs (b)1. and 2., comply with
47 the following requirements:

48 1. The private fund adviser shall advise only those 3(c)(1)
49 funds, other than venture capital funds, whose outstanding
50 securities, other than short-term paper, are beneficially owned
51 entirely by accredited investors; and

52 2. At the time of purchase, the private fund adviser shall
53 disclose the following in writing to each beneficial owner of a
54 3(c)(1) fund that is not a venture capital fund:

55 a. All services, if any, to be provided to individual
56 beneficial owners;

57 b. All duties, if any, the investment adviser owes to the
58 beneficial owners; and

59 c. Any other material information affecting the rights or
60 responsibilities of the beneficial owners.

61 (d) If a private fund adviser is registered with the
62 Securities and Exchange Commission, the adviser is not eligible
63 for the exemption from the registration requirements of this
64 section and shall comply with the notice filing requirements
65 applicable to federal covered advisers in s. 517.1201.

66 (e) A person is exempt from the registration requirements
67 of this section if the person is employed by or associated with
68 an investment adviser that is exempt from registration and does
69 not otherwise act as an associated person of an investment



70 adviser or federal covered adviser.

71 (f) The report filings and the amendments thereto described
72 in subparagraph (b)2. shall be made electronically through the
73 Investment Adviser Registration Depository of the Financial
74 Industry Regulatory Authority. A report is deemed filed with the
75 office when the report has been filed and accepted by the
76 depository on the office's behalf.

77
78 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

79 And the directory clause is amended as follows:

80 Delete lines 707 - 711

81 and insert:

82 (21), respectively, subsection (1), present subsections (2) and
83 (3), paragraph (b) of present subsection (6), present
84 subsections (7) and (11), paragraph (b) of present subsection
85 (15), and present subsections (20) and (21) of that section are
86 amended, and a new subsection (22) is added to that section, to
87 read:

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete line 29

92 and insert:

93 made by the act; making technical changes; providing
94 definitions; providing exemptions from registration
95 requirements for private fund advisers under certain
96 conditions; providing exceptions; providing
97 requirements for certain private fund advisers;
98 providing reporting requirements; creating s.