
Obama Administration Proposes The "Private Fund Investment Advisers Registration Act of 2009"

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On July 15, 2009, the Obama Administration delivered proposed legislation entitled the "Private Fund Investment Advisers Registration Act of 2009" to Capitol Hill. The proposed legislation would amend the Investment Advisers Act of 1940 (the "Advisers Act") to, among other things:

- add a new definition of "private fund" which would broadly cover investment companies relying on the so called "private investment company" exemptions under the Investment Company Act of 1940;
- add a new definition of "foreign private adviser" which would cover investment advisers having no place of business in the United States, fewer than 15 clients in the United States and less than \$25,000,000 in assets under management attributable to clients in the United States;
- eliminate the Advisers Act's registration exemption presently available to investment advisers having fewer than 15 clients and which do not advise registered investment companies;
- impose disclosure and recording keeping requirements on advisers to private funds; and
- clarify that the rulemaking authority of the Securities and Exchange Commission ("SEC") under the Advisers Act includes promulgating rules and regulations defining "technical, trade, and other terms" used in the Advisers Act, including the term "client."

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