



United States Government Accountability Office
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July 14, 2011

The Honorable Tim Johnson
Chairman
The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Spencer Bachus
Chairman
The Honorable Barney Frank
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Securities and Exchange Commission: Family Offices*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (the Commission), entitled “Family Offices” (RIN: 3235-AK66). We received the rule on June 24, 2011. It was published in the *Federal Register* as a final rule on June 29, 2011, with a stated effective date of August 29, 2011. 76 Fed. Reg. 37,983.

The Investment Advisers Act of 1940 imposes certain registration and other regulatory requirements on investment advisers.¹ The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 excluded family offices from the definition of investment advisers.² This final rule defines family offices for the purposes of that exclusion.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule.

¹15 U.S.C. § 80b.

²Pub. L. No. 111-203, § 409, 124 Stat. 1376, 1575–1576 (July 21, 2010).

Our review of the procedural steps taken indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Elizabeth M. Murphy
Secretary, Securities and
Exchange Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"FAMILY OFFICES"
(RIN: 3235-AK66)

(i) Cost-benefit analysis

The Securities and Exchange Commission (the Commission) discussed the costs and benefits associated with this final rule. According to the Commission, the benefits of this final rule will be that (1) family offices will not be subject to the mandatory costs of registering with the Commission as investment advisers and the associated compliance costs, (2) family offices and their clients will be spared the costs of seeking and considering individual exemptive orders, and (3) the rule will free Commission staff resources from reviewing and processing large numbers of family office exemptive applications. The Commission also discussed costs associated with this final rule, including the costs some family offices will incur to evaluate whether they meet the terms of the exclusion, estimated to be in aggregate between \$25 million and \$175 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared a Final Regulatory Flexibility Analysis regarding this rule which discussed the need for the rule; significant issues raised by public comment; small entities subject to the rule; reporting, recordkeeping, and other compliance requirements; and agency actions to minimize the effect on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On October 18, 2010, the Commission published a notice of proposed rulemaking. 75 Fed. Reg. 63,753. The Commission received approximately 90 comments on the proposed rule, most of which were submitted by law firms representing family offices. The Commission discussed the comments in the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The Commission determined that this final rule does not contain any information collection requirements under the act.

Statutory authorization for the rule

The Commission promulgated this final rule under the authority of sections 202(a)(11)(G) and 206A of the Investment Advisers Act of 1940. 15 U.S.C. §§ 80b-2(a)(11)(G), 80b-6A.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the Order.