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UTAH DEPARTMENT OF COMMERCE

Division of Securities

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April 14, 2025

Thomas Scriven
Senior Counsel
RPCK | Rastegar Panchal
1031 33rd Street
Denver, CO 80205

Via email: tom.scriven@rpck.com

Re: Gratitude Railroad Management, LLC – No-Action Request

Dear Mr. Scriven:

The Utah Division of Securities (“Division”) has reviewed your January 23, 2025 request for a no-action letter concerning Gratitude Railroad Management, LLC (“GRM”), a Delaware limited liability company headquartered in Park City, Utah. Your request for no-action relief from the Division is authorized by Section 61-1-25(5) of the Utah Uniform Securities Act (“Act”) and Utah Administrative Code (“UAC”) Rule R164-25-5.

Your letter indicates GRM is an investment adviser that manages, or will manage, certain private investment funds that are qualifying private funds (“Funds”) as defined in Rule 203(m)-1 of the Investment Advisers Act of 1940 (“IA Act”). Each of the Funds is eligible for the exclusion from the definition of an investment company under Section 3(c)(1) of the Investment Company Act of 1940.

GRM does not qualify for an exemption from licensing contained in UAC Rule R164-4-9 for providing investment advice to private funds. However, GRM does qualify for an exemption under the NASAA Model Rule¹ that provides a licensing exemption for advisers to Section 3(c)(1) private funds, as GRM meets the required criteria, and further agrees to provide reports required to be filed by exempt reporting advisers to the Division and pay any filing fee established in the future by the Division for such advisers.

¹ NASAA Registration Exemption for Investment Advisers to Private Funds Model Rule, attached as Exhibit A to your request letter. We note Rule R164-4-9 was promulgated prior to the existence of the NASAA Model Rule, which as your letter indicates has been adopted in some form in more than 38 U.S. jurisdictions.

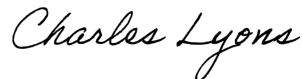
April 14, 2025

In addition, your request seeks confirmation from the Division that GRM will not be prohibited under Section 61-1-2 of the Act from entering investment advisory contracts that provide for performance-based compensation, as described in your letter, provided that any client entering into such contracts is a “qualified client” as defined in Rule 205-3(d) of the IA Act.² Finally, you request confirmation that under UAC Rule R164-5-3, GRM as an exempt reporting adviser will not be required to file audited financial statements for GRM with the Division, noting that pursuant to Section (c)(3) of the Model Rule, GRM will annually obtain audited financial statements for each 3(c)(1) private fund that is not a venture capital fund, and will deliver those to each beneficial owner of the fund.

Based upon the representations in your letter, we will not recommend any enforcement or administrative disciplinary action should GRM proceed with its business in Utah as an exempt reporting adviser as set forth in your request letter. As this recommendation is based upon the representations made to the Division, any different facts or conditions of a material nature might require a different conclusion. Furthermore, the relief granted herein is expressly limited to GRM and will have no precedential effect whatsoever for any other party. This response does not purport to express any legal conclusions regarding the applicability of statutory or regulatory provisions of federal or state securities laws to the questions presented. It merely expresses the position of the Division staff on enforcement or administrative actions. Finally, the issuance of a no-action letter does not absolve any party from complying with the antifraud provisions contained in Section 61-1-1 of the Act.

Very truly yours,

UTAH DIVISION OF SECURITIES



Charles M. Lyons
Securities Analyst

cc: Ken Barton, Chief of Compliance
Bryan Cowley, Chief of Licensing and Corporate Finance

² In adhering to the qualified client standard, your letter correctly notes that neither the NASAA Model Rule nor the IA Act impose such limitations on exempt reporting advisers. We also note that the thresholds in the qualified client standard exceed the minimal client requirements in the Division’s performance-based compensation rule, R164-2-1.

VIA EMAIL

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Colorado | 1/23/2025

Re: Gratitude Railroad Management, LLC — No-Action Request (January 15, 2025 Update)

Dear Mr. Sterzer:

On behalf of Gratitude Railroad Management, LLC (“GRM”), we respectfully request a No Action Letter from the Utah Division of Securities (the “Division”) that would allow GRM, an investment adviser that qualifies for a registration exemption based on the North American Securities Administrators Association (“NASAA”) Registration Exemption for Investment Advisers to Private Funds Model Rule (the “Model Rule”), to file as an exempt reporting adviser in Utah. As described further herein, GRM meets the investment adviser licensing exemption requirements under the Model Rule and, therefore, exempting GRM from investment adviser licensing is in the public interest. The current version of this Letter has been updated on January 23, 2025, to address questions outlined in an email we received last week from your colleague, Ms. Sheila Thomas, and feedback we received during a video conference call on January 22, 2025, with Ms. Thomas and Mr. Charles (Chip) Lyons.

In addition, we seek clarification that, should GRM be permitted, pursuant to this letter, to file as an exempt private fund adviser, that the exemption will apply with respect to:

- (a) Section 61-1-2, sub-part (2)(a) of the Utah Uniform Securities Act, as amended (the “Act”), such that GRM will not be prohibited from entering into, performing, renewing or extending an investment advisory contract that provides for compensation to GRM on the basis of a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds, of a client (“Performance-based Compensation”), *provided*, that the client entering into such contract is a “qualified client”, as defined in Rule 205-3(d) of the Investment Advisers Act of 1940, as amended (the “Investment Advisers Act”); and
- (b) Utah Administrative Code (“Code”) Section R164-5-3, such that GRM, as an exempt reporting adviser, will not be required to obtain and file with the Division audited financial statements for GRM. Pursuant to the requirement in Section (c)(3) of the Model Rule, GRM intends to obtain on an annual basis audited financial statements for each GRM-managed Section 3(c)(1) private fund that is

not a venture capital fund and to deliver such audited financial statements to each beneficial owner of the fund.

As further described herein, such an outcome provides greater protection to investors than what they are provided under the Model Rule and the Investment Advisers Act and rules promulgated thereunder.

Background Information

GRM is a subsidiary of Gratitude Railroad LLC and is a community-driven impact investment firm championing innovative businesses that have an enduring positive impact on the communities in which they do business. In connection with a restructuring of the Gratitude Railroad organization, GRM is in the process of assuming management of private investment funds which historically have been managed by Gratitude Railroad LLC (the “Legacy Funds”, listed in Section 7.B(1) of Gratitude Railroad LLC’s Form ADV, which is available on the Investment Adviser Public Disclosure (IAPD) website at <https://adviserinfo.sec.gov/firm/summary/325044>; the Legacy Funds also are listed in Section 7.B(1) of the draft GRM Form ADV, which is being available to the Division separately. In addition to the Legacy Funds, GRM intends to manage the following investment funds which are actively fundraising: Plankton-Gratitude Yield Co., LP (the “PGY Fund”), Gratitude Inclusive Capital Fund, LP, and Gratitude Ventures Fund II, LP. (the “New Funds”).

Each of the New Funds and the Legacy Funds (collectively, the “Funds”) are qualifying private funds as defined in Rule 203(m)-1 of the Investment Advisers Act. Each of the Funds is eligible for exclusion from the definition of an investment company under Section 3(c)(1) of the Investment Company Act of 1940, as amended (the “Investment Company Act”). GRM is a Delaware limited liability company headquartered in Park City, Utah, and is registered as a foreign limited liability company with the Utah Department of Commerce.

Utah Code Section RI 64-4-9(A)(2) “provides exemptions from the licensing requirements of the Act for investment advisers and investment adviser representatives who meet specified criteria.” The exemption under Utah Administrative Code Section R164-4-9(D) only applies to “a private fund that regularly makes equity investments in companies” when certain specified conditions are met. These specified conditions are designed for venture capital funds that usually take an active role with the companies in which those venture capital funds invest. While the Funds may occasionally take an active role with the companies in which it invests, the Fund would generally be considered a passive investor for purposes of the exemption in Utah Administrative Code Section RI 64-4- 9(A)(2). Therefore, GRM would not qualify for the exemption for investment advice to certain private funds who pursue a venture capital strategy.

While GRM does not qualify for the narrow exemption outlined in Utah Code Section R164-4-9(D), which is designed specifically for the venture capital funds that take an active management role in the target companies, GRM would qualify for the much broader exemption under the Model Rule which was adopted on December 16, 2011, and Amended on

October 8, 2013. (Attached as Exhibit A). The Model Rule gives a licensing exemption for advisers to Section 3(c)(1) private funds if the private fund adviser satisfies each of the following conditions:

- (1) Neither the private fund adviser nor any of its advisory affiliates are subject to an event that would disqualify an issuer under Rule 506(d)(1) of SEC Regulation D, 17 C.F.R. § 230.506(d)(1);
- (2) The private fund adviser files with the state each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4; and
- (3) The private fund adviser pays the fees specified in Section XXX [410 of USA 2002].

See Exhibit A, at (I)(b)

Neither GRM nor any of its advisory affiliates are subject to an event that would disqualify an issuer under Rule 506(d)(1) of SEC Regulation D, 17 C.F.R. § 230.506(d)(1). GRM will file the reports required to be filed by exempt reporting advisers and pay any filing fee established by the Division pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4.

Under the Model Rule, in addition to the requirements listed above, a private fund adviser who advises at least one Section 3(c)(1) fund that is not a venture capital fund must also comply with the following requirements:

- (a) The private fund adviser shall advise only those 3(c)(1) funds (other than venture capital funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who, after deducting the value of the primary residence from the person's net worth, would each meet the definition of a qualified client in SEC Rule 205-3, 17 C.F.R. § 275.205-3, at the time the securities are purchased from the issuer;
- (b) At the time of purchase, the private fund adviser shall disclose the following in writing to each beneficial owner of a 3(c)(1) fund that is not a venture capital fund:
 - (A) all services, if any, to be provided to individual beneficial owners;
 - (B) all duties, if any, the investment adviser owes to the beneficial owners; and

(C) any other material information affecting the rights or responsibilities of the beneficial owners.

- (c) The private fund adviser shall obtain on an annual basis audited financial statements of each 3(c)(1) fund that is not a venture capital fund, and shall deliver a copy of such audited financial statements to each beneficial owner of the fund.

See Exhibit A, at (I)(c)

The New Funds which are not a venture capital fund (“New Non-VC Funds”) are only open to (a) persons who qualify as an “accredited investor”, as defined in Regulation D under the Securities Act of 1933, as amended (the “Securities Act”), and, on a going forward basis, to (b) persons who qualify as a “qualified client”, as defined in Rule 205-3 of the Investment Advisers Act.

GRM will provide the required information regarding services, duties, rights and responsibilities to the beneficial owners of the New Non-VC Funds at the time of purchase (or has provided such information to investors who have already subscribed for an interest in one or more of the New Non-VC Funds). GRM will provide, on a going forward basis, audited financial statements to each beneficial owner of the New Non-VC Funds on an annual basis.¹ Accordingly, GRM will meet all the requirements of the registration exemption for private fund advisers under the Model Rule on a going forward basis.

Furthermore, the Funds have not engaged and currently do not plan to engage brokers or otherwise offer or plan to offer compensation to any person in exchange for soliciting investment in the Funds’ partnership interests or otherwise; however, the Funds will continue to seek advice of counsel with respect to complying with broker-dealer regulations in relation to its fundraising and operational matters.

We seek confirmation that, should GRM be permitted, pursuant to this letter, to file as an exempt private fund adviser, Section 61-1-2, sub-part 2(a) of the Utah Uniform Securities Act, as amended (the “Act”), will not be deemed to prohibit GRM from entering into, performing, renewing or extending an investment advisory contract that provides for compensation to GRM on the basis of a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds, of a client (“Performance-based Compensation”). GRM will limit the investors with whom it enters a contract providing for the payment of Performance-Based Compensation to those who fall within the definition of a

¹ In accordance with an approach which I discussed with Ms. Thomas and Mr. Lyons in our January 22, 2025, video conference call, GRM intends to prepare consolidated financial statements for the PGY Fund for the 2024 and 2025 fiscal years because the PGY Fund operated for only a portion of 2024 and had limited activity in this year. GRM will have the consolidated 2024-2025 financial statements of the PGY Fund audited and will deliver such audited financial statements for the PGY Fund to each investor in such fund. GRM will deliver in the current quarter (Q1 2025) notice to each of the PGY Fund investors that GRM intends to wait until Q1 2026 to deliver to investors audited, consolidated financial statements for the PGY Fund for the 2024 and 2025 fiscal years. I understand, based on my conversation with Ms. Thomas and Mr. Lyons, that this approach is acceptable.

“qualified client”, as defined in Rule 205-3(d) of the Investment Advisers Act of 1940, as amended (the “Investment Advisers Act”).

The Model Rule does not prohibit the collection of Performance-based Compensation by private fund advisers who qualify for a registration exemption under the Model Rule, nor does the Rule impose additional compliance requirements on an adviser on account of the adviser collecting Performance-based Compensation. Similarly, private fund advisers who are exempt from registration under Section 203(l) or 203(m) of the Investment Advisers Act are not prohibited from, nor subject to additional compliance requirements on account of, collecting Performance-based Compensation. Advisers who are registered pursuant to the Investment Advisers Act are limited to collecting Performance-based Compensation only from investors who satisfy the definition of a qualified client. The Investment Advisers Act imposes no such limitation on advisers who qualify for an exemption under Section 203(l) or 203(m); however, GRM will adhere to such limitation, offering more protection to investors than what they are afforded under the Investment Advisers Act and the Model Rule.

Similarly, we seek clarification that, should GRM be permitted, pursuant to this letter, to file as an exempt private fund adviser, GRM’s obligation to obtain, and deliver to investors, audited financial statements is limited to the requirement, set forth in Section (c)(3) of the Model Rule, that GRM, as an exempt private fund adviser, obtain on an annual basis audited financial statements for each 3(c)(1) private funds that is not a venture capital fund and to deliver such audited financial statements to each beneficial owner of the fund. This outcome is consistent with Model Rule, which intends to define a national standard for the limited set of compliance requirements applicable to qualifying private fund advisers, and with the Advisers Act, which applies an audit requirement only to registered investment advisers. *See* Rule 206(4)-2 (requiring only registered investment advisers to pooled investment vehicles to obtain on an annual basis audited financial statements and to deliver such statements to investors in the pooled vehicles).²

² We note that Rule 206(4)-10 of the Advisers Act requires *registered investment advisers* who advise private funds to cause the private funds they manage to deliver audited financial statements to investors. Rule 206(4)-10, however, was vacated, along with other recently-enacted private fund adviser rules issued by the SEC, on June 5, 2024 by the U.S. Court of Appeals for the Fifth Circuit. The vacating of the private fund adviser rules does not impact the relief we are requesting pursuant to the NASAA Model Rule.

Basis for Relief

GRM qualifies for the registration exemption for private fund advisers under the Model Rule. The Model Rule, or a variation thereof which grants a similar exemption for a private fund adviser, has been adopted in at least 38 U.S. jurisdictions, meaning that private fund advisers similar or identical to GRM are exempt from the registration requirements in a clear majority of jurisdictions in the United States. Further, the Division has granted similar relief to other similarly-situated adviser before (See, e.g., Orchard Income Management, LLC, Utah Division of Securities No Action Letter, July 20, 2023; Hunter Search Management, LLC, Utah Division of Securities No Action Letter, April 28, 2023; Pinwheel Capital Management LLC, Utah Division of Securities No Action Letter, March 25, 2022; and OLO Capital Investment Manager, LLC, Utah Division of Securities No Action Letter, March 30, 2022). Furthermore, the relief GRM requests from the requirements of Section 61-1-2(2)(a) with respect to our collection of Performance-Based Compensation is consistent with, and more protective of investors than, the Model Rule and the Investment Advisers Act.

Finally, we believe that exempting GRM from the registration requirements and requirements under the Act and Code pertaining to GRM's practice of collecting Performance-based Compensation and exempting GRM from the requirements in Code Section R164-5-3 pertaining to the audit of licensed investment advisers' financial statements would pose no risk to the beneficial owners of the Fund. Beneficial owners of GRM-managed funds will meet the SEC standards for investment sophistication and experience as both accredited investors *and* qualified clients. GRM will provide the beneficial owners of the Funds with all of the material information necessary to evaluate the risks and merits of investing in the Fund and will submit annual Form ADV filings to the SEC and the Utah Division of Securities. Further, GRM will adhere to rules governing Performance-Based Compensation and financial reporting that are at least as protective of investors as rules applicable to advisers who qualify for an exemption under Section 203(m) of the Advisers Act. GRM also will obtain audited financial statements with respect to each non-venture capital Section 3(c)(1) fund GRM manages and deliver such statements to the beneficial owners of the applicable non-VC funds (subject to the plan, discussed in footnote 1, above, with respect to a 'stub-audit' for the PGY Fund's 2024 financial statements). Given these facts, GRM respectfully requests that the Division exempt it from the investment adviser licensing requirements of Utah Uniform Securities Act and the requirements under Section 61-1-2, sub-part (2)(a) of the Act and Code Section R164-5-3.

If you have questions regarding this request or require additional information, please do not hesitate to contact me. I look forward to your response.

Yours truly,

/s/ Thomas Scriven

Thomas Scriven

EXHIBIT A

**NASAA Registration Exemption for Investment Advisers to Private Funds
Model Rule**

*Adopted December 16, 2011; Amended October 08, 2013**

I. TEXT OF MODEL RULE

Rule XXX Registration exemption for investment advisers to private funds.

(a) Definitions. For purposes of this regulation, the following definitions shall apply:

- (1) “Value of primary residence” means the fair market value of a person's primary residence, subtracted by the amount of debt secured by the property up to its fair market value.
- (2) “Private fund adviser” means an investment adviser who provides advice solely to one or more qualifying private funds.
- (3) “Qualifying private fund” means a private fund that meets the definition of a qualifying private fund in SEC Rule 203(m)-1, 17 C.F.R. 275.203(m)-1.
- (4) “3(c)(1) fund” means a qualifying private fund that is eligible for the exclusion from the definition of an investment company under section 3(c)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-3(C)(1).
- (5) “Venture capital fund” means a private fund that meets the definition of a venture capital fund in SEC Rule 203(1)-1, 17 C.F.R. § 275.203(1)-1.

(b) ***Exemption for private fund advisers.*** Subject to the additional requirements of paragraph (c) below, a private fund adviser shall be exempt from the registration requirements of Section XXX [403 of USA 2002] if the private fund adviser satisfies each of the following conditions:

- (1) neither the private fund adviser nor any of its advisory affiliates are subject to an event that would disqualify an issuer under Rule 506(d)(1) of SEC Regulation D, 17 C.F.R. § 230.506(d)(1);
- (2) the private fund adviser files with the state each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4; and
- (3) the private fund adviser pays the fees specified in Section XXX [410 of USA 2002].

- (c) **Additional requirements for private fund advisers to certain 3(c)(1) funds.** In order to qualify for the exemption described in paragraph (b) of this regulation, a private fund adviser who advises at least one (3)(c)(1) fund that is not a venture capital fund shall, in addition to satisfying each of the conditions specified in paragraphs (b)(1) through (b)(3), comply with the following requirements:
- (1) The private fund adviser shall advise only those 3(c)(1) funds (other than venture capital funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who, after deducting the value of the primary residence from the person's net worth, would each meet the definition of a qualified client in SEC Rule 205-3, 17 C.F.R. § 275.205-3, at the time the securities are purchased from the issuer;
 - (2) At the time of purchase, the private fund adviser shall disclose the following in writing to each beneficial owner of a 3(c)(1) fund that is not a venture capital fund:
 - (A) all services, if any, to be provided to individual beneficial owners;
 - (B) all duties, if any, the investment adviser owes to the beneficial owners;
and
 - (C) any other material information affecting the rights or responsibilities of the beneficial owners.
 - (3) The private fund adviser shall obtain on an annual basis audited financial statements of each 3(c)(1) fund that is not a venture capital fund, and shall deliver a copy of such audited financial statements to each beneficial owner of the fund.
- (d) **Federal covered investment advisers.** If a private fund adviser is registered with the Securities and Exchange Commission, the adviser shall not be eligible for this exemption and shall comply with the state notice filing requirements applicable to federal covered investment advisers in Section XXX [405 of USA 2002].
- (e) **Investment adviser representatives.** A person is exempt from the registration requirements of Section XXX [404 of USA 2002] if he or she is employed by or associated with an investment adviser that is exempt from registration in this state pursuant to this regulation and does not otherwise act as an investment adviser representative.
- (f) **Electronic filing.** The report filings described in paragraph (b)(2) above shall be made electronically through the IARD. A report shall be deemed filed when the report and the fee required by Section XXX (410 of USA 2002) are filed and accepted by the IARD on the state's behalf.

- (g) ***Transition.*** An investment adviser who becomes ineligible for the exemption provided by this rule must comply with all applicable laws and rules requiring registration or notice filing within ninety (90) days from the date the investment adviser's eligibility for this exemption ceases.
- (h) ***Waiver Authority with Respect to Statutory Disqualification.*** Paragraph (b)(1) shall not apply upon a showing of good cause and without prejudice to any other action of the [state securities regulator], if the [Administrator] determines that it is not necessary under the circumstances that an exemption be denied.
- [(i) Grandfathering for investment advisers to 3(c)(J) funds with non-qualified clients. An investment adviser to a 3(c)(1) fund (other than a venture capital fund) that has one or more beneficial owners who are not qualified clients as described in subparagraph (c)(1) is eligible for the exemption contained in paragraph (b) of this regulation if the following conditions are satisfied:*
- (1) the subject fund existed prior to the effective date of this regulation;*
 - (2) as of the effective date of this regulation, the subject fund ceases to accept beneficial owners who are not qualified clients, as described in subparagraph (c)(1) of this regulation;*
 - (3) the investment adviser discloses in writing the information described in paragraph (c)(2) to all beneficial owners of the fund; and*
 - (4) as of the effective date of this regulation, the investment adviser delivers audited financial statements as required by paragraph (c)(3).]*

II. COMMENTARY

1. Section (a). Section (a) defines key terms in the model rule. The definitions are structured such that the types of private funds covered under the rule will include funds excluded from the definition of investment company under Sections 3(c)(1) and 3(c)(7) of the Investment Company Act, along with other private funds that would satisfy the statutory requirements found in these exclusions.
2. Section (b). Section (b) explains that in order to claim the exemption from registration, the adviser and its affiliates must not be subject to a “bad boy” disqualification. This section of the rule also explains that the exemption is contingent upon the adviser filing a report with the state securities administrator. This report is identical to the one required by the SEC for advisers to venture capital funds and private funds with less than \$150 million in assets under management. Changes to Form ADV and to IARD have been implemented that will accommodate the filing of

the report with state regulators. The report will consist of the following items on Part IA of Form ADV: Items 1 (Identifying Information), 2.B. (SEC Reporting by Exempt Reporting Advisers), 3 (Form of Organization), 6 (Other Business Activities), 7 (Financial Industry Affiliations and Private Fund Reporting), 10 (Control Persons), and 11 (Disclosure Information). In addition, the corresponding sections of Schedules A, B, C, and D must be completed.

3. Section (c). Section (c) and its subparts place additional conditions upon advisers to 3(c)(1) funds. Specifically, in order to qualify for the exemption from investment adviser registration, the 3(c)(1) fund must be comprised entirely of “qualified clients” under SEC Rule 205-3. This means that individual investors must have either \$1 million in investments managed by the adviser or at least \$2 million in net worth. The model rule states that the value of the primary residence is not included in calculating net worth. The value of the primary residence will be an estimate of the fair market value made at the time the net worth calculation is conducted. Section (c) also requires the adviser to deliver annual audited financial statements to the investors in the fund, and it requires the adviser to make other specific disclosures to those investors.
4. Section (d). This section simply notes that advisers registered with the SEC are not eligible for the exemption. They are treated the same as other federal covered advisers.
5. Section (e). The rule establishes an exemption from registration for investment advisers. Therefore, this section explains that the investment adviser representatives employed by the advisers would not be required to register.
6. Section (f). Section (f) requires the reports filed by the advisers to be filed with the state through IARD. The rule recognizes that a state may charge a fee for this report, but in most instances a statutory change would likely be required to implement the fee.
7. Section (g). When an exempt reporting adviser loses the exemption by, for instance, adding a client that does not meet the financial requirements under the rule, the adviser would be required to register. This paragraph gives the adviser 90 days in which to complete that registration.
8. Section (h). Section (h) is an optional “grandfathering” provision that would allow advisers to private funds currently exempt under state law to remain exempt provided that the adviser files the reports required under the rule, does not accept new investors that will not meet the financial requirements imposed by the rule, and provides the required disclosures to the investors.