

**ORDER GRANTING TEMPORARY RELIEF FOR INVESTMENT ADVISERS
PREVIOUSLY EXEMPT FROM REGISTRATION UNDER N.C.G.S. §78C-16(a)(4)**

WHEREAS, the Secretary of State (the "Administrator") is charged with the administration of the North Carolina Investment Advisers Act (Chapter 78C of the North Carolina General Statutes, hereinafter the "Investment Advisers Act"); and

WHEREAS, N.C.G.S. §78C-30 provides, in part, that "[t]he Administrator may from time to time make, amend and rescind such . . . orders as are necessary to carry out the provisions of this Chapter . . .;" and

WHEREAS, N.C.G.S. §78C-16(a) provides, in part, that "[i]t is unlawful for any person to transact business in this State as an investment adviser unless . . . the person is registered under this Chapter . . .;" and

WHEREAS, N.C.G.S. §78C-16(a)(4) provides for an exemption from registration in North Carolina as an investment adviser for persons exempt from registration under the federal Investment Advisers Act of 1940 by operation of any rule or regulation promulgated by the United State Securities Exchange Commission under or related to section 203(b)(3); and

WHEREAS, N.C.G.S. §78C-16(a1)(2) provides for an exemption from registration in North Carolina as an investment adviser representative for persons employed by or associated with an investment adviser exempt from registration under N.C.G.S. §78C-16(a)(4); and

WHEREAS, section 203(b)(3) of the Investment Advisers Act of 1940 provides, in part, an exemption from federal registration as an investment adviser for any adviser "...who during the course of the preceding twelve months has had fewer than fifteen clients and who [does not hold] himself out generally to the public as an investment adviser ...;" and

WHEREAS, effective July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly referred to as the Dodd-Frank Act, will eliminate the existing exemption from registration for investment advisers contained in section 203(b)(3) (known as the "private adviser exemption"); and

WHEREAS, pursuant to provisions of the Dodd-Frank Act, the United States Securities and Exchange Commission has adopted rules regarding registration under federal law of certain advisers to pooled investment funds ("private fund advisers") and exemption from registration under federal law of other such advisers ("exempt reporting advisers"), but has not fully implemented such rules; and

WHEREAS, the Administrator is presently cooperating with the North American Securities Administrators Association in the development of uniform protocols for the regulation of exempt reporting advisers under state securities laws; and

WHEREAS, the full implementation of both the federal registration of private fund advisers and the state regulation of exempt reporting advisers will be effected through modifications to the

Investment Adviser Registration Depository, a national system for the registration of investment advisers, which modifications will not likely be completed until late in 2011; and

WHEREAS, uncertainty may exist about the registration status after July 21, 2011, of investment advisers and investment adviser representatives transacting business in North Carolina who are currently unregistered under North Carolina law in reliance on the existing exemptions set forth in N.C.G.S. §§78C-16(a)(4) and 78C-16(a1)(2); and

WHEREAS, the Administrator finds that the issuance of this Order is necessary and appropriate in the public interest and for the protection of investors and clients and consistent with the purposes fairly intended by the policies and provisions of the Investment Advisers Act;

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Investment advisers and investment adviser representatives transacting business in North Carolina who currently qualify for the exemptions from registration set forth in N.C.G.S. §§78C-16(a)(4) and 78C-16(a1)(2) may continue to rely on those exemptions until such time as the Administrator adopts final rules for the regulation of private fund advisers and exempt reporting advisers.
2. The position expressed in this Order extends to state investment adviser and investment adviser representative registration requirements only, and does not excuse compliance with applicable securities registration, antifraud or related provisions.
3. Nothing in this Order shall be construed to affect the activities of any investment adviser and investment adviser representative transacting business in North Carolina that is not subject to the jurisdiction of the Administrator as a result of the National Securities Markets Improvements Act of 1996, as amended.
4. This Order shall remain in effect unless and until subsequently amended or rescinded.

This the 19th day of July 2011.



ELAINE F. MARSHALL,
Secretary of State and
Securities Administrator

David S. Massey
Deputy Securities Administrator