

# Regulatory Alert

## SEC Increases Qualified Client Thresholds for Performance Fees – Effective June 29, 2026

On April 28, 2026, the SEC issued Release No. IA-6961, adjusting for inflation the dollar thresholds for the “Qualified Client” exemption pursuant to Rule 205-3 under the Investment Advisers Act of 1940 (“Advisers Act”). Section 205(a)(1) of the Advisers Act generally prohibits an investment adviser from entering into, extending, renewing, or performing any investment advisory contract that provides for compensation to the adviser based on a share of capital gains on, or capital appreciation of, the funds of a client (also known as “Performance Fees”) unless the Qualified Client thresholds are met.

Effective June 29, 2026 (the “Effective Date”), to be considered a Qualified Client, an investor must meet one of the following tests at the time they enter into the advisory contract:

- The Assets-Under-Management test increases from \$1,100,000 to \$1,400,000.
- The Net-Worth test increases from \$2,200,000 to \$2,700,000 (excluding the value of their primary residence and related debt).

The prohibition in Section 205(a)(1) does NOT apply to certain entities, including:

- Investment companies registered under the Investment Company Act of 1940 (such as registered mutual funds).
- Clients who are not residents of the United States.
- “Qualified Purchasers” and certain “knowledgeable employees” of the advisory firm.

### IMPACT ON INVESTMENT MANAGERS

The change affects SEC-registered investment advisers that rely on Rule 205-3 to assess Qualified Client status for charging Performance Fees, including hedge funds, private equity, private credit managers and certain separately managed accounts. For advisory contracts executed on or after the Effective Date, registered investment advisers must apply the new thresholds when determining whether a client is a Qualified Client. Qualified Clients engaged prior to the Effective Date, are held to previous thresholds and retroactive analysis is not required unless a new contractual agreement is entered into as discussed below.

## **TRANSITION AND COMPLIANCE ACTIONS**

Pre-existing Performance Fee contracts entered before the Effective Date remain governed by the thresholds in effect when those contracts were signed, unless a new contractual arrangement is triggered, then updated Qualified Client thresholds apply to the new contract. Examples of new contractual agreements include but are not limited to: (i) material amendments to existing contracts; (ii) contract renewals, extensions and assignments; (iii) subsequent fund subscriptions such as follow-on investments to a new fund sleeve or rolling over capital from a liquidating fund to a newly launched fund by the same adviser; and (iv) direct transfer or assignment of fund interests such as secondary market transfers or transfers into a new investment entity. Firms should update onboarding documentation, automated qualification checks, and reasonable-belief processes to reflect the new amounts for contracts entered on or after the effective date. Recordkeeping of the basis for qualification decisions and related attestations should be retained consistently with advisers' obligations.

## **OPTIMA'S RECOMMENDATION**

Investment advisers charging Performance Fees should review the following documents to confirm the updated representations relating to Qualified Client status accurately reference the applicable thresholds:

- Subscription Documents
- Investor Questionnaires
- Investment Advisory Agreements charging Performance Fees
- Solicitation Agreements
- Compliance Manual
- Advertisements
- Internal investor tracking documentation
- Systems requiring rules which provide automated validation for Qualified Client thresholds

Advisers should adopt a policy providing for re-qualification only when entering new contracts, renewing or materially amending fee arrangements, or onboarding new contracting parties. Firms should review and document their "reasonable belief" processes supporting net-worth qualifications, including defining acceptable supporting evidence, timing of attestations, verification practices and retention of records. In addition, Firms should discuss the updated Qualified Client thresholds with the firm's business development, investor relations and marketing teams.

## **ABOUT OPTIMA PARTNERS**

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If you have questions or would like to discuss, please contact your Optima relationship Partner or [info@optima-partners.com](mailto:info@optima-partners.com).