

Perkins Coie Helps Family Offices Benefit From Regulation Best Interest No-Action Relief

WASHINGTON, D.C. (January 25, 2021)—Perkins Coie LLP represented large family office clients in providing views to the staff of the U.S. Securities and Exchange Commission (SEC) as part of a process that resulted in a no-action letter. These clients sought relief for broker-dealers from Regulation Best Interest (Reg BI) which, effective June 2020, establishes a new standard of conduct for broker-dealers when making a recommendation of any securities transaction or investment strategy to a retail customer. The Perkins Coie team consisted of Investment Management practice Partner Jesse Kanach and Partner Domingo Such, firmwide chair of the Family Office Services industry group.

New Reg BI imposed duties that prevented large family offices, if treated as retail customers, from making certain sophisticated investments. The Perkins Coie team presented its case before staff members of the SEC alongside the Private Investor Coalition (PIC), which represents part of the family office industry. In parallel, the Securities Industry and Financial Markets Association (SIFMA), which is the leading trade association for broker-dealers, submitted a no-action request on behalf of the brokerage industry.

SIFMA's request for a no-action letter included, as part of the submission, a letter from PIC that reiterated points made during the SEC staff meeting. On December 23, the SEC staff issued a no-action letter granting the requested relief. The letter enables family offices who meet certain criteria to invest as institutional, rather than retail, investors under the new regulation.

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