New Beneficial Owner Threshold Eases VC Fundraising

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Small venture capital funds and special purpose vehicles, which otherwise qualify as "venture capital funds," can now raise money from up to 250 beneficial owners and remain within the 3(c)(1) exemption of the Investment Company Act of 1940 (the "Investment Company Act").

On May 24, 2018, the Economic Growth, Regulatory Relief, and Consumer Protection Act (the "Act") was signed into law. Among the financial industry reforms included in the Act is a modification to Section 3(c)(1). Section 3(c)(1) is a common exemption used by funds and special purpose vehicles to avoid registering as an investment company with the Securities and Exchange Commission. While previously limited to 100 beneficial owners, "qualifying venture capital funds," those venture capital funds that do not have more than $10 million in aggregate capital contributions and uncalled committed capital, can now take advantage of the Section 3(c)(1) exemption if they have no more than 250 beneficial owners.

Prior to the passage of the Act, the 100-owner limit presented fundraising challenges for smaller venture capital funds and special purpose vehicles, which tend to attract investors that invest relatively smaller amounts of capital. We believe the increase of the beneficial-owner threshold will allow asset managers, angel groups, and online platforms greater flexibility to access capital for their qualifying venture capital funds and special purpose vehicles by allowing them to raise capital from a larger number of investors. This additional flexibility is one more step forward in facilitating the raising of capital for emerging companies.

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