

SEC Proposes to Exempt Certain “Finders” from Broker-Dealer Registration Requirements

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A divided SEC voted last week to issue a [Proposed Exemptive Order](#) (the Proposal) that would, if adopted, permit natural person “finders” to engage in certain private capital raising activities, including in connection with private funds, without registering as a broker-dealer. The extent to which finders are subject to broker-dealer registration has long been uncertain. The question of whether a finders exemption already exists has long been debated, recognized in a very limited form by historical SEC staff no-action letters and more recent case law, but never explicitly adopted by the Commission. The Proposal, if adopted, would provide legal certainty to issuers and finders that previously operated under a legal shadow. The timing and politically divided views on the Proposal, however, raise the question of whether it ultimately will be adopted, should the administration, and thus the political makeup of the SEC, change in January.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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