On July 12, 2011, the Securities and Exchange Commission (SEC) issued an order to increase the minimum amount of net worth or minimum amount under management that (i) a client of a registered investment adviser or (ii) an investor in a 3(c)(1) fund managed by a registered investment adviser must have in order to be charged performance-based compensation. The order sets the new qualification thresholds—pursuant to the SEC’s rule on performance-based compensation charged by registered investment advisers (Rule 205-3 under the Investment Advisers Act of 1940)—at either $2 million in net worth (increased from $1.5 million) or $1 million in assets under management with the relevant investment adviser (increased from $750,000), measured at the time the client enters into an advisory contract, or the investor invests in the 3(c)(1) fund. Unlike the amendments to Rule 205-3 that the SEC proposed in May 2011, the order did not exclude the value of a client’s or an investor’s primary residence from the calculation of net worth nor did the order grandfather prior investors. The SEC will likely adopt at least some of these changes in a later rule amendment prior to the effectiveness of the new thresholds. The order will be effective as of September 19, 2011. 

For a link to the order, please click here.