

**The Investment Company Act of 1940:**  
**Investment Company Registration And The Exclusions Therein**

The Investment Company Act of 1940 ("ICA'40") defines an investment company as, among other things, an issuer that "is or holds itself out as being engaged primarily... in the business of investing, reinvesting, or trading securities. A standard U.S. investment limited partnership or "hedge fund," engages in that business, but avoids most of the regulations applicable to investment companies by relying on the exclusions from the definition of "investment company" in ICA'40 Sections 3(c)(1) and 3(c)(7).

An investment company that does not qualify for an exclusion from the definition of "investment company" may not offer or sell a security in the U.S. unless the company is registered under ICA'40 Section 8. A registered investment company (i.e., mutual fund) is subject to technical, complex, and extensive substantive regulation of its activities.

**3(c)(1) Exception**

ICA'40 section 3(c)(1) excludes any pooled investment vehicle from the definition of an investment company and thus does not require registration of such vehicle if it is not beneficially owned by more than 100 investors, and does not make or propose to make a public offering of its securities. Vehicles relying on this exclusion are commonly called "3(c)(1) Funds."

**3(c)(7) Exception**

ICA'40 section 3(c)(7) excludes any pooled investment vehicle from the definition of an investment company and thus does not require registration of such vehicle if all of the beneficial owners of its outstanding securities are "qualified purchasers," and does not make or propose to make a public offering of its securities. A qualified purchaser is defined by the ICA'40 as a natural person with a net worth of \$5 million or an institution with a net worth of \$25 million. Vehicles relying on this exclusion are commonly called "3(c)(7) Funds."

*This memorandum is intended to inform Malik Law Group's clients of certain legal matters and is not intended as legal advice. You should consult a lawyer before taking any action based on the information contained above. Please contact Malik Law Group with any questions or comments you may have about this memorandum.*

---

For Further Information:

**BILAL H. MALIK:** 678.279.5478 or [bilal.malik@maliklawgroup](mailto:bilal.malik@maliklawgroup) OR **DEVLIN H. DWYER:** 678.279.5494 or [devlin.dwyer@maliklawgroup.com](mailto:devlin.dwyer@maliklawgroup.com)