# *Goodbye Family Office?*

By Shahnaz Mahmud

"GOODBYE "FAMILY OFFICE," WELCOME HOMMES D'AFFAIRES." This is the title to a hybrid article/letter that François Sicart, founder and chairman of New York-based Tocqueville Asset Management wrote and posted on the firm's website in February of this year, in lieu of the coming changes the Securities and Exchange Commission were toiling over to define the term 'family office.'

"Here we go: We can't call the small department I have assembled to help our portfolio managers who deal with wealthy families a "family office." I really don't mind, though, because the increased use and abuse of the appellation in recent years has depreciated its meaning to the point where I had already stopped referring to this department as our family office," the letter began.

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That's where the SEC's workings end for the firm—Tocqueville is a registered investment advisor. But it may be indicative of interesting changes to come—particularly where multi-family office practices are concerned—now that the final rules have been adopted for RIA registration.

In late June, the SEC declared a family office as: having "no clients other than family clients; is wholly owned and exclusively controlled by family members or family entities; and does not hold itself out to be an investment adviser."

Now, families are grappling with major issues they previously avoided by not registering, primarily due to a lack of enforcement.

"The new rules are a game changer because you have new liabilities and new compliance obligations that change how you do business day-to-day" says Steven Thayer, Partner at private client law firm Handler Thayer, LLP, in Chicago.

There are also new disclosure obligations that require them to disclose litigation, enforcement actions, and disciplinary actions—"all sorts of things you were involved in that you don't necessarily want to go out and publicize to the world," says Thayer. "And the fiduciary duties and obligations that come with being an RIA versus a private fund manager are very different," he adds.

While it's still early days—family offices have until March 2012 to decide whether they will register or not—some industry players are taking the stance that outsourcing will become a driving force in the decision-making process.

"I do think it will shake out some of the single family offices and move them towards the multi-family office model we employ," says New York multi-family office's David Basner, President of TAG Associates.

"I think family offices will definitely be afraid of the registration," says Chicago-based Bill Woodson, managing director and head of Family Wealth Management at Credit Suisse. "Not only of current burdens—but future unanticipated burdens as well."

Woodson says a lot of activities he witnessed this past year were family offices requesting exemptions and no action letters.

Thayer believes there will be a continuation of families seeking special private exemptions from the registration requirements under the Advisor's Act. In the SEC's final rules, it left all of the existing private exemptions alone, meaning that families who were previously granted an exemption, could continue to rely upon that exemption.

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"If I was a single family office, and really didn't think the rules were applicable to me, I would seek a private exemption to make sure the SEC agreed with me," he says.

For those that don't find an applicable exemption from the new registration requirements, which is already being perceived as a last resort, families are more likely to outsource their investment advisory functions to a multi-family office.

Credit Suisse's Woodson says the trend is something the industry has witnessed before:

"The MFO industry grew out of a similar need – for families to outsource certain functions that they wanted to provide to family members, whether it was investment advisory, tax preparation, wealth education or integrated services. This is just an extension of that," he says.

GenSpring Family Offices' COO Mike Holden, who is based both in New York and Palm Beach Gardens, Fla., says since the final rules have been proclaimed, the multi-family office has received several inquiries from potential new clients—single family offices—seeking "to open a dialogue around how me might be able to navigate around this change in regulatory landscape."

Some discussions have centered on areas such as understanding the potential impacts of the rules, ie what it means to be registered, as well as the cost of infrastructure that needs to be put in place.

Holden cautions family offices to think much longer term: "While the rule itself seems straightforward, there are some ongoing complexities and what they [single family offices] don't want to do is accidentally be in violation of regulation," he says. "Just because someone might give you an exemption today, by changing circumstances, like the family structure, that could result in violation of the rules in [as soon as] a six month to one-year timeframe."

But, high on their minds, he says, is the viability to continue to have a high level of customization families have been enjoying to this end.

That remains the question.

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