SECURITIES AND EXCHANGE COMMISSION

Release No. IA-3867 / 803-00212

DUNCAN FAMILY OFFICE; NOTICE OF APPLICATION

July 1, 2014

Agency: Securities and Exchange Commission ("Commission").

Action: Notice of application for an exemptive order under section 202(a)(11)(H) of the Investment Advisers Act of 1940 ("Advisers Act").

Applicant: Duncan Family Office ("Applicant").

Relevant Advisers Act Sections: Exemption requested under section 202(a)(11)(H) of the Advisers Act from section 202(a)(11) of the Advisers Act.

Summary of Application: Applicant requests that the Commission issue an order declaring it to be a person not within the intent of section 202(a)(11) of the Advisers Act, which defines the term "investment adviser."

Filing Dates: The application was filed on March 27, 2012, and amended on March 4, 2014, and April 22, 2014.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 28, 2014 and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

Addresses: Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549. Applicant, Duncan Family Office, c/o Martin E. Lybecker, Perkins Coie LLP, Suite 600, 700 Thirteenth Street, N.W., Washington, D.C. 20005. For Further Information Contact: Vanessa M. Meeks, Senior Counsel, at (202) 551-6806 or Melissa R. Harke, Branch Chief, at (202) 551-6722 (Division of Investment Management, Chief Counsel's Office).

Supplementary Information: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 100 F Street, NE, Washington, D.C. 20549-0102 (telephone (202) 551-5850).

Applicant's Representations:

1. Applicant is a multi-generational single-family office that provides services to the family and descendants of Dan L. Duncan. Applicant is a division of Enterprise Products Company, an energy company located in Houston, Texas ("Company"), and the Company is wholly-owned by Family Clients and is exclusively controlled (directly or indirectly) by one or more Family Members and/or Family Entities in compliance with rule 202(a)(11)(G)-1 ("Family Office Rule"). For purposes of the application, the term "Duncan Family" means the lineal descendants of Dan L. Duncan, their spouses, and all of the persons and entities that qualify as Family Clients as defined in paragraph (d)(4) of the Family Office Rule. Capitalized terms have the same meaning as defined in the Family Office Rule.

2. Applicant provides both advisory and non-advisory services (collectively, the "Services"). Any Service provided by the Applicant that relates to investment advice about securities or may otherwise be construed as advisory in nature is considered an "Advisory Service."

3. Applicant represents that: (i) other than the exception discussed in representation 4 below, each of

the persons served by the Applicant is a Family Client, i.e., Applicant has no clients other than Family Clients as required by paragraph (b)(1) of the Family Office Rule, (ii) Applicant is a division of the Company, which is owned and controlled in a manner that complies in all respects with paragraph (b)(2) of the Family Office Rule, and (iii) Applicant does not hold itself out to the public as an investment adviser as required by paragraph (b)(3) of the Family Office Rule. At the time of the application, Applicant represents that Family Members account for approximately 75 percent of the natural persons to whom the Applicant provides Advisory Services.

4. Applicant provides Services to the mother of a spouse of a lineal descendant of Dan L. Duncan ("Mother-in-Law"), as well as certain related foundations (collectively, the "Additional Family Client"). Applicant represents that if the Mother-in-Law were a Family Client, the related foundations would meet the requirements of (d)(4)(v) of the Family Office Rule.

5. The Additional Family Client does not have an ownership interest in the Company. Applicant represents that the assets beneficially owned by Family Members and/or Family Entities (excluding the Additional Family Client's Family Entities) make up at least 75 percent of the total assets for which the Applicant provides Advisory Services. 6. Applicant represents that the Additional Family Client has important familial ties to and is an integral part of the Duncan Family. Applicant maintains that including the Additional Family Client in the "family" simply recognizes and memorializes the familial ties and intra-familial relationships that already exist, and have existed for at least 16 years while the assets of the Additional Family Client were managed by the Duncan Family.

Applicant's Legal Analysis:

1. Section 202(a)(11) of the Advisers Act defines the term "investment adviser" to mean "any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities . . . . "

2. Applicant falls within the definition of an investment adviser under section 202(a)(11). The Family Office Rule provides an exclusion from the definition of investment adviser for which the Applicant would be eligible but for the provision of Services to the Additional Family Client. Section 203(a) of the Advisers Act requires investment advisers to register with the Commission. Because the Applicant has regulatory assets under management of more than $100 million, it is not prohibited from registering with the Commission under section 203A(a) of the Advisers Act. Therefore, absent relief, Applicant would be required to register under section 203(a) of the Advisers Act.

3. Applicant submits that its relationship with the Additional Family Client does not change the nature of the office into that of a commercial advisory firm. In support of this argument, Applicant notes that if the Mother-in-Law were the mother of a lineal descendent of Dan L. Duncan, rather than the mother of a spouse of a lineal descendent, there would be no question that each of the persons presently being served by the office would be a Family Member, and that the related foundations would meet the requirements of paragraph (d)(4)(v) of the Family Office Rule pertaining to charitable foundations. Applicant states that in requesting the order, the office is not attempting to expand its operations or engage in any level of commercial activity to which the Advisers Act is designed to apply. Indeed, although the Mother-in-Law does not fall within the definition of Family Member, she is considered to be, and is treated as, a member of the Duncan Family, and the number of natural persons who are not Family Members as a percentage of the total natural persons to whom the office would provide Advisory Services if relief were granted would be only approximately 25 percent. Applicant maintains that, from the perspective of the Duncan Family, Applicant seeks to continue providing Advisory Services exclusively to members of a single family.

4. Applicant also submits that there is no public interest in requiring the Applicant to be registered under the Advisers Act. Applicant states that the office is a private organization that was formed to be the "family office" for the Duncan Family, and that the office does not have any public clients. Applicant maintains that the office's Advisory Services are tailored exclusively to the needs of the Duncan Family and the Additional Family Client. Applicant argues that the presence of the Additional Family Client, who has been receiving Advisory Services from the office for 16 years, does not create any public interest

that would require the office to be registered under the Advisers Act that is different in any manner than the considerations that apply to a “family office” that complies in all respects with the Family Office Rule.

5. Applicant argues that, although the Family Office Rule largely codified the exemptive orders that the Commission had previously issued before the enactment of the Dodd- Frank Wall Street Reform and Consumer Protection Act, the Commission recognized in proposing the rule that the exact representations, conditions, or terms contained in every exemptive order could not be captured in a rule of general applicability. The Commission noted that family offices would remain free to seek a Commission exemptive order to advise an individual or entity that did not meet the proposed family client definition, and that certain situations may raise unique conflicts and issues that are more appropriately addressed through an exemptive order process where the Commission can consider the specific facts and circumstances, than through a rule of general applicability. Applicant maintains that its unusual circumstances - providing Services to Family Clients and to an Additional Family Client for the past 16 years - have not changed the nature of the office’s operations into that of a commercial advisory business, and that an exemptive order is appropriate based on the Applicant’s specific facts and circumstances.

6. For the foregoing reasons, Applicant requests an order declaring it to be a person not within the intent of section 202(a)(11) of the Advisers Act. Applicant submits that the order is necessary and appropriate, in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Advisers Act.

Applicant’s Conditions:

1. The Applicant will offer and provide Advisory Services only to Family Clients and to the Additional Family Client, who will generally be deemed to be, and treated as if she and certain related foundations were, a Family Client; provided, however, that the Additional Family Client will be deemed to be, and treated as if she were, a Family Member for purposes of paragraph (b)(1) and for purposes of paragraph (d)(4)(vi) of the Family Office Rule.

2. The Company will at all times be wholly-owned by Family Clients and exclusively controlled (directly or indirectly) by one or more Family Members and/or Family Entities (excluding the Additional Family Client’s Family Entities) as defined in paragraph (d)(5) of the Family Office Rule.

3. At all times the assets beneficially owned by Family Members and/or Family Entities (excluding the Additional Family Client’s Family Entities) will account for at least 75 percent of the assets for which Applicant provides Advisory Services.

4. Applicant will comply with all the terms for exclusion from the definition of investment adviser under the Advisers Act set forth in the Family Office Rule except for the limited exception requested by this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson
Assistant Secretary