

March 6, 2007

VIA EMAIL

Securities and Exchange Commission
Division of Investment Management
100 F Street NE
Washington D.C. 20549-5041

Re: File Number S7-25-06 (RIN 3235-AJ67)
Comments on Proposed Rule: "Prohibition of Fraud by Advisers to Certain Investment Vehicles; Accredited Investors in Certain Pooled Investment Vehicles"

Dear Sirs:

The Bottom Line:

- The entire rule is flawed since there is not a sufficient correlation between economic sophistication and net worth to justify disenfranchising millions of existing and potential investors from access to an investment class that has proven to be less volatile and risky than regulated investment vehicles such as mutual funds.
- If the rule cannot be scrapped in its entirety, at a bare minimum, existing investors in a pooled investment vehicle **should be grandfathered** from the proposed definition of "Accredited Natural Persons." The rule should clarify that existing investors should be allowed to remain in existing pools and be allowed to make add-on investments in the future.

The Rule Will Hurt Investors Access to the Types of Funds that Reduce Investment Risk

I am a principal and general partner of several pooled investment vehicles, all but one of which are 3(c)7 limited partnerships. Our oldest LP is 11 years old, has been operating conservatively and profitably since inception. That LP has generated positive returns for ten of those years. Our statistics show 75-80% positive monthly returns. Our volatility (as measured by standard deviation and other common measurements) is lower than the market as measured by the S&P 500 (and most of our deviation is "positive" since we have outperformed the market in so many periods). Our correlation with the S&P 500 over the past 11 years is 0.45 (i.e. low correlation). Unlike heavily regulated mutual funds, who routinely are 95% invested at all times regardless of the valuations and risks in the market, our LP's are often 20-50% in cash awaiting prudent investment opportunities. Heavy regulation did not stop millions of investors who were in heavily regulated mutual funds in the early 2000s from losing trillions (trillions with a "t"), while our investors enjoyed positive returns in 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006.

We are a relatively small firm, with several hundred investors and \$150 million in assets under management. We often know first hand (or at least second hand) who are investors are. Our families (who are all not wealthy) invest some of their money with us. We counsel investors to not give us more than 15-20% of their portfolios since we specialize in one investment sector (banking) and we do not provide the investor with diversification. Routinely, our investors tell us that our returns outshine (over the long haul, if not every year) their regulated investments. While it's immodest, I think the vast majority of our investors are very glad to have access to a well run and successful LP that does a better job of managing risk than any mutual fund they own. We invest our own money in the LPs and we take our role very seriously. Quite frankly, funds like ours and many other private vehicles run by highly qualified and incented managers are likely the best vehicles for many investors to own.

Given my view, I think that this proposed rule is a misguided attempt at backdoor regulation of the hedge fund industry, with the unintended consequence that you are going to hurt far more investors (who have to divest existing funds that they are perfectly suitable for, and prospective investors who will fail to be one of the "chosen few sophisticates" because of an arbitrary net worth requirement that excludes 98% of the US population) than you will help.

My Twenty Five Years of Interacting with High and Low Net Worth Investors Shows the Proposed Rule's Predicate is Not Strong Enough to Justify Cutting off Millions of Investors

I also disagree with the predicate of this rule, that high net worth and liquid assets correlate strongly with economic sophistication. For example, I often find that there are very wealthy investors who are very good at making money (as business owners, doctors, lawyers, etc.) who are very unsophisticated and indifferent investors. And the opposite is often true. There are millions of sophisticated investors who will never have the level of net worth specified in the proposed rule. How many college professors in Finance would qualify under this rule? Very few, when obviously they are sophisticated. As a CPA who worked in a Big Eight firm for 12 years, I can tell you that I would never have qualified to be in my own fund under this proposed rule, despite the fact that I was quite sophisticated in financial matters. The U.S. is full of sophisticated investors who are not as wealthy as the requirements who are no doubt damaged by this proposed rule.

As mentioned earlier, if the proposed rule cannot be scrapped in its entirety, at a bare minimum, existing investors in a pooled investment vehicle **should be grandfathered** from the proposed definition of "Accredited Natural Persons." The rule should clarify that existing investors should be allowed to remain in existing pools and allowed to make add-on investments in the future.

Sincerely,

Richard Lashley
Principal