

August 19, 2011

The Honorable Troy A. Paredes Commissioner Office of the Commissioners United States Securities and Exchange Commission 100 F Street, NE Room 10700 Washington, DC 20549

Dear Commissioner Paredes:

It was a pleasure to meet with you earlier this summer to discuss various Dodd-Frank Act regulations that impact private equity.

Per your request, we have developed the three attached documents for your reference and assistance. First, we have attached a matrix that reviews the applicability of the new Investment Adviser Act registration requirements to private equity investment advisers. The document amplifies the points we discussed, suggesting that many provisions of the new registration regime either do not reflect the unique aspects of the private equity business model when compared to other investment advisers or are of little use to the SEC when applied to private equity. Accordingly, the document also makes recommendations for tailoring these registration requirements for private equity investment advisers. Second, we have attached a matrix that reviews the applicability of proposed Form PF to private equity investment advisers and makes recommendations for ways in which the SEC should tailor its final version of Form PF to remove provisions that are highly impractical and problematic for private equity firms. Third, we have attached a proposed definition of "private equity fund" that may be helpful as the SEC considers updating various proposed rules, including the rules regarding incentive compensation.

We hope that you find the attached documents helpful. We will follow up with your staff to provide additional background on the documents. If you have any questions or if our organization can be helpful to you in any way, please let us know.

Sincerely,

Steve Judge

Vice President of Government Affairs Private Equity Growth Capital Council Jason Mulvihill

Jason Muliiliell

General Counsel

Private Equity Growth Capital Council

Attachments

Applicability of Advisers Act Regulation to Private Equity Fund Sponsors

Summary Chart

Current Advisers Act Section or Rule	<u>Description</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Form ADV Part 1A	General census information on adviser (including AUM), its employees, and its clients.	Yes.	Limit to same reporting as "exempt reporting advisers," which includes only information on (i) name, location, and form of organization, (ii) other business activities, financial industry affiliates, and control persons, (iii) private fund reporting, and (iv) disciplinary history.
Form ADV Part 2A	The Brochure – Plain English conflicts-of-interest disclosure.	Yes. Note, however, that the client is the fund and fund investors already receive extensive disclosure in the fund's private placement memorandum and other disclosure documents.	Exempt private fund sponsors from requirement to complete Part 2A, provided that the private placement memorandum contains the information required by the form.
Form ADV Part 2B	The Brochure Supplement – Description of persons actually providing advice to the client.	Yes. Note however, that the client is the fund and fund investors already receive extensive disclosure in the private placement	Exempt private fund sponsors from requirement to complete Part 2B, provided that the private placement memorandum contains the information required by the

		memorandum.	form.
Rule 204-3	Delivery of Brochures and Brochure Supplements.	Yes (see above).	Exempt private fund sponsors from requirement to deliver Brochure and Brochure Supplement. See above.
Rule 204A-1(a)(3)	Requirement that all access persons report their personal securities transactions and holdings quarterly.	Certain private equity funds rarely, if ever, trade in public securities, although some funds will acquire public securities in going private transactions.	Provide private equity sponsors with greater flexibility to tailor their process for addressing insider trading issues in order to assure that their employees do not trade on non-public information or take investment opportunities that would be appropriate for the fund.
Rule 206(4)-1	Advertising Rule Restricts use of testimonials, past recommendations and generally false and misleading materials.	Investors in private equity funds are sophisticated investors who can and do request specific performance and other information from the fund sponsors. Duplicative of Rule 206(4)-8. The rule may not apply directly to the private placement memorandum of the fund. The past recommendations rule is not adapted to realities of private equity, where investors are looking for information	Exempt private equity sponsors from all provisions except for the basic anti-fraud provision.

		concerning a limited number of private transactions.	
Rule 206(4)-2	Custody Rule.	Private equity funds would generally be required to undergo an annual audit by a PCAOB-registered and inspected independent accountant and undergo audit upon liquidation. Most private equity funds do not hold the types of assets that lend themselves to embezzlement or theft.	Limit the applicability of the rule to cash and publicly traded securities, or consider exempting private equity funds from all provisions of the rule if they meet the conditions of the rule's annual audit exception.
Rule 206(4)-6	Proxy Voting Rule – Requires adoption of policies to vote in client's best interests.	No, private equity generally control their companies.	Complete exemption.

Exempt PE firms from various books and records requirements and Proxy Voting Record requirements

Comprehensive Chart

Current Advisers Act Section or Rule	<u>Description</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Form ADV Part 1A	General census information on adviser (including AUM), its employees, and its clients.	Yes.	Limit to same reporting as "exempt reporting advisers," which includes only information on (i) name, location, and form of organization, (ii) other business activities, financial industry affiliates, and control persons, (iii) private fund reporting, and (iv) disciplinary history.
Form ADV Part 2A	The Brochure – Plain English conflicts-of-interest disclosure.	Yes. Note, however, that the client is the fund and fund investors already receive extensive disclosure in the fund's private placement memorandum.	Exempt private fund sponsors from requirement to complete Part 2A, provided that the private placement memorandum contains the information required by the form.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Form ADV Part 2B	The Brochure Supplement — Description of persons actually providing advice to the client.	Yes. Note however, that the client is the fund and fund investors already receive extensive disclosure in the private placement memorandum.	Exempt private fund sponsors from requirement to complete Part 2B, provided that the private placement memorandum contains the information required by the form.
Rule 204-3	Delivery of Brochures and Brochure Supplements.	Yes (see above).	Exempt private fund sponsors from requirement to deliver Brochure and Brochure Supplement. See above.
Section 204A	Requirement for policies concerning abuse of material non-public information.	Yes.	No recommendation at this time.
Rule 204A-1(a)(1), (2), (4), and (5)	Code of Ethics – Requirement that an adviser (i) adopt a standard of business conduct reflecting fiduciary duties, (ii) require compliance by all supervised persons with applicable Federal securities laws, (iii) require all supervised persons to sign an acknowledgement and report all violations and (iv) require preclearance for investments in IPOs and private placements.	Yes.	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Rule 204A-1(a)(3)	Requirement that all access persons report their personal securities transactions and holdings quarterly.	Certain private equity funds rarely, if ever, trade in public securities, although some funds will acquire public securities in going private transactions.	Provide private equity sponsors with greater flexibility to tailor their process for addressing insider trading issues in order to assure that their employees do not trade on non-public information or take investment opportunities that would be appropriate for the fund.
Section 205(a)(1)	Prohibition on charging performance fees in advisory contracts (with certain exceptions including 3(c)(7) funds and non-U.S. clients).	Generally exempted under the Section or the Rule below	No recommendation at this time.
Rule 205-3	Performance Fee Rule – Provides an exemption from the prohibitions on charging a performance fee so long as fund investors consist only of "qualified clients".	Only applicable to 3(c)(1) funds. Current arrangements are proposed to be grandfathered, and usually are easy to comply with.	No recommendation at this time.

Current Advisers Act Section or Rule	<u>Description</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Section 205(a)(2)	Requirement that advisory contracts prohibit on "assignment" without consent of client.	The client is the fund and "key man" and other similar provisions are already heavily negotiated. Agreements entered into prior to registration may not be clear who provides consent.	No recommendation at this time.
Section 205(a)(3)	Requirement that advisory contracts provide for notification to client of any change in membership of a private equity firm that is a partnership.	The client is the fund.	No recommendation at this time.
Section 206(a)(1), (2) & (4)	General anti-fraud provisions.	Yes.	No recommendation at this time.
Section 206(a)(3)	Prohibition on acting as principal or agent in a transaction without disclosure to client.	Only occurs under rare circumstances for a private equity fund.	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Rule 206(4)-1	Advertising Rule Restricts use of testimonials, past recommendations and generally false and misleading materials.	Investors in private equity funds are sophisticated investors who can and do request specific performance and other information from the fund sponsors. Duplicative of Rule 206(4)-8. The rule may not apply directly to the private placement memorandum of the fund. The past recommendations rule is not adapted to realities of private equity, where investors are looking for information concerning a limited number of private transactions.	Exempt private equity sponsors from all provisions except for the basic anti-fraud provision.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Rule 206(4)-2	Custody Rule.	Private equity funds would generally be required to undergo an annual audit by a PCAOB-registered and inspected independent accountant and undergo audit upon liquidation. Most private equity funds do not hold the types of assets that lend themselves to embezzlement or theft.	Limit the applicability of the rule to cash and publicly traded securities, or consider exempting private equity funds from all provisions of the rule if they meet the conditions of the rule's annual audit exception.
Rule 206(4)-3	Cash Solicitation Rule (applies to solicitors of clients).	Private equity firms generally do not engage cash solicitors.	No recommendation at this time.
Rule 206(4)-5	Pay-to-Play Rule – Restricts political contribution and use of placement agents under certain circumstances.	Yes.	No recommendation at this time.
Rule 206(4)-6	Proxy Voting Rule – Requires adoption of policies to vote in client's best interests.	No, private equity generally control their companies.	Complete exemption.
Rule 206(4)-7	Rule requiring adoption of compliance policies and procedures, and hiring of chief compliance officer.	Yes.	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action		
Rule 206(4)-8	Anti-fraud rule for pooled investment vehicles.	Yes.	No recommendation at this time.		
Books and Records					
Rule 204-2(e)	Maintenance requirements – Generally, all books and records shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years in an appropriate office of the investment adviser.	Yes.	No recommendation at this time.		
Rule 204-2(g)	Permission to store books and records electronically.	Yes	No recommendation at this time.		
Required Books and Reco advisers).	Required Books and Records (the items listed below are the books and records required to be kept by all registered investment advisers).				
(a)(1)	A journal or journals, including cash receipts and disbursements, records, and any other records of original entry forming the basis of entries in any ledger.	Yes	No recommendation at this time.		

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
(a)(2)	General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.	Yes	No recommendation at this time.
(a)(3)	A memorandum of each purchase or sale order (or any related instruction from client), including information concerning account allocation.	Given the long process and large amount of documentation relating to most purchases and sales by private equity funds, it is unclear why a separate memorandum to file is required.	Exempt private equity fund sponsors from this provision.
(a)(4)	All check books, bank statements, cancelled checks and cash reconciliations of the investment adviser.	Yes.	No recommendation at this time.
(a)(5)	All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment adviser as such.	Yes.	No recommendation at this time.
(a)(6)	All trial balances, financial statements, and internal audit working papers relating to the business of such investment adviser.	Yes.	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
(a)(7)	Written communications relating to (i) any proposed or actual investment advice or recommendation; (ii) any receipt, disbursement or delivery of funds or securities; or (iii) Any purchase or sale order.	Private equity sponsors generally generate a large amount of documents relating to their proposed investment advice, including due diligence materials, and extensive documentation of negotiated purchases and sales of securities.	Exempt private equity fund sponsors from this provision.
(a)(8)	A list or other record of all accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client.	Yes. Private equity fund sponsors control the investment decisions of the funds that they manage.	Exempt private equity funds sponsors from this provision. By definition, private equity fund sponsors have discretion over the funds that they manage.
(a)(9)	All powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser, or copies thereof.	Yes.	Same as above.
(a)(10)	All written agreements (or copies thereof) entered into by the investment adviser with any client or otherwise relating to the business of such investment adviser as such.	Yes.	No recommendation at this time.

Current Advisers Act Section or Rule	<u>Description</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
(a)(11)	A copy of each widely-distributed (10 or more persons) advertisement or similar document.	Yes.	No recommendation at this time.
(a)(12)(i)	A copy of Code of Ethics that is in effect, or at any time within the past five years was in effect.	Yes.	No recommendation at this time.
(a)(12)(ii)	A record of any violation of the Code of Ethics, and of any action taken as a result of the violation.	Yes.	No recommendation at this time.
(a)(12)(iii)	A record of all written acknowledgments of receipt of the Code of Ethics for each person who is currently, or within the past five years was, a supervised person of the investment adviser.	Yes.	No recommendation at this time.
(a)(13)(i)	A record of each personal securities transactions report and holdings report made by an access person under the Code of Ethics.	See discussion above re: Rule 204A-1(a)(3).	See discussion above re: Rule 204A-1(a)(3).

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
(a)(13)(ii)	A record of the names of persons who are currently, or within the past five years were, access persons of the investment adviser	See discussion above re: Rule 204A-1(a)(3).	See discussion above re: Rule 204A-1(a)(3).
(a)(13)(iii)	A record of any decision, and the reasons supporting the decision, to approve the acquisition of securities by access persons under the Code of Ethics, for at least five years after the end of the fiscal year in which the approval is granted.	See discussion above re: Rule 204A-1(a)(3).	See discussion above re: Rule 204A-1(a)(3).
(a)(14)	Records relating to Part 2A (the Brochure).	See discussion above re: Form ADV Part 2A.	See discussion above re: Form ADV Part 2A.
(a)(15)	All written acknowledgments of receipt obtained from clients pursuant to the Cash Solicitation Rule and copies of the disclosure documents delivered to clients by solicitors pursuant to the Cash Solicitation Rule.	Private equity sponsors generally do not hire cash solicitors.	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
(a)(16)	Records or documents that are necessary to back up performance information presented in widely-distributed (10 or more persons) advertisements or similar documents.	Yes. May make it difficult for people to change firms because may not have the performance data to back up. Sophisticated investors should be trusted to consider performance data without back up if there is appropriate disclosure.	No recommendation at this time.
(a)(17)(i)	A copy of the investment adviser's compliance policies and procedures that are in effect, or at any time within the past five years were in effect.	Yes.	No recommendation at this time.
(a)(17)(ii)	Any records documenting the investment adviser's annual review of its compliance policies and procedures	Yes	No recommendation at this time.
(a)(17)(iii)	A copy of any internal control report obtained or received pursuant to the Custody Rule (where an affiliated person acts as qualified custodian).	Yes, but unlikely to apply.	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
1 -	Pay-to-Play Books and Records (generally only for advisers who have government entities that are clients or investor, such as governmental retirement plans)		
(a)(18)(i)(A)	The names, titles and business and residence addresses of all covered associates of the investment adviser (under the Pay-to-Play Rule).	Yes	No recommendation at this time.
(a)(18)(i)(B)	All government entities which are or were clients or investors in a fund, in the past five years, but not prior to September 13, 2010.	Yes	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
(a)(18)(i)(C)	All direct or indirect contributions made by the investment adviser or any of its covered associates to an official of a government entity, or direct or indirect payments to a political party of a State or political subdivision thereof, or to a political action committee. The record must include (i) the name and title of each contributor; (ii) the name and title (including any city/county/State or other political subdivision) of each recipient of a contribution or payment; (iii) the amount and date of each contribution or payment; and (iv) whether any such contribution was the subject of the exception for certain returned contributions.	Yes	No recommendation at this time.
(a)(18)(i)(D)	The name and business address of each placement agent who is paid for soliciting a government entity.	Yes	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Custody Books and Recor	rds (only for investment advisers who hav	re "custody" of client funds or secur	rities)
(b)(1)	A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for such accounts and all other debits and credits to such accounts.	Yes.	No recommendation at this time.
(b)(2)	A separate ledger account for each such client showing all purchases, sales, receipts and deliveries of securities, the date and price of each purchase and sale, and all debits and credits.	Yes.	No recommendation at this time.
(b)(3)	Copies of confirmations of all transactions effected by or for the account of any such client.	Yes.	No recommendation at this time.
(b)(4)	A record for each security in which any such client has a position, which record shall show the name of each such client having any interest in such security, the amount or interest of each such client, and the location of each such security.	Yes.	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
(b)(5)	A memorandum describing the basis upon which the private equity firm has determined that the presumption that any related person is not operationally independent under the Custody Rule has been overcome.	Yes, but unlikely to occur.	No recommendation at this time.
Records Relating to Inves management services to c	tment Management Services (only applie lient portfolios)	s to investment advisers providing i	nvestment supervisory or
(c)(1)(i)	Records showing separately for each such client the securities purchased and sold, and the date, amount and price of each such purchase and sale.	Yes.	No recommendation at this time.
(c)(1)(ii)	For each security in which any such client has a current position, information from which the investment adviser can promptly furnish the name of each such client, and the current amount or interest of such client.	Yes.	No recommendation at this time.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Proxy Voting Records (on	ly applies to investment advisers with the	e authority to vote client securities)	
(c)(2)(i)	Copies of all proxy voting policies and procedures.	See discussion above re: Rule 206(4)-6.	See discussion above re: Rule 206(4)-6.
(c)(2)(ii)	A copy of each proxy statement that the investment adviser receives regarding client securities.	See discussion above re: Rule 206(4)-6.	See discussion above re: Rule 206(4)-6.
(c)(2)(iii)	A record of each vote cast by the investment adviser on behalf of a client.	See discussion above re: Rule 206(4)-6.	See discussion above re: Rule 206(4)-6.
(c)(2)(iv)	A copy of any document created by the adviser that was material to making a decision how to vote proxies on behalf of a client or that memorializes the basis for that decision.	See discussion above re: Rule 206(4)-6.	See discussion above re: Rule 206(4)-6.

Current Advisers Act Section or Rule	Description	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
(c)(2)(v)	A copy of each written client request for information on how the adviser voted proxies on behalf of the client, and a copy of any written response by the investment adviser to any (written or oral) client request for information on how the adviser voted proxies on behalf of the requesting client.	See discussion above re: Rule 206(4)-6.	See discussion above re: Rule 206(4)-6.

Applicability of Form PF to Private Equity Fund Sponsors

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
1. <u>Filing of the Form</u>		
General Filing Requirement	Private equity funds are not systemically risky. See PEGCC comment letters on Form PF (the "Form PF Comment Letter") ¹ and on systemic risk (the "Systemic Risk Comment Letter). ²	Exempt private equity sponsors from filing Form PF. Alternatively, simplify and shorten the form as recommended below.
Quarterly Reporting	Information in private equity funds' holdings is not subject to significant fluctuations on a quarterly (or often even on an annual) basis. See Form PF Comment Letter, p. 16.	Require only annual reporting.

PEGCC Comment Letter Re: Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, Release No. IA-3145, File No. S7-05-11 (submitted to SEC April 12, 2011).

PEGCC Comment Letter Re: Financial Stability Oversight Council (the "FSOC") Notice of Proposed Rulemaking Regarding Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies—FSOC-2011-0001 (submitted to FSOC on February 25, 2011).

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
15-day Deadline	It is impossible to value the illiquid securities held by private equity funds within 15 days after the end of a period. Meaningful valuations require much longer time periods. See Form PF Comment Letter, p. 19.	Allow period of at least 90 days.
2. <u>Provisions on the Form</u>		
A. Section 1a		
Total regulatory assets under management	Yes, already required by Form ADV.	No recommendation at this time.
Total net assets under management.	Yes	No recommendation at this time.
Breakdown (as a dollar amount) of regulatory assets under management and net assets under management for hedge funds, liquidity funds, private equity funds, real estate funds, securitized asset funds, venture capital funds, other private funds, and funds and accounts other than private funds.	Yes	No recommendation at this time.

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
B. Section 1b (for each fund)	Yes.	Allow aggregation of parallel funds and co-investment vehicles to reduce administrative burden.
Gross asset value of the fund.	Yes	No recommendation at this time.
Net asset value of the fund.	Yes	No recommendation at this time.
Dollar amount of total borrowings of the fund.	Yes, although private equity funds generally do not borrow at the fund level. See Systemic Risk Comment Letter, p. 6.	Exclude this requirement for any fund that has not borrowed and does not have outstanding a principal amount in excess of twice its invested capital commitments. If required, at least exclude short-term borrowings (to cover needs pending receipt of capital contributions from investors), e.g., borrowings outstanding for less than 30 days, to the extent that the total amount outstanding does not exceed 25% of a fund's committed capital.
Percentage borrowed from U.S. financial institutions, non-U.S. financial institutions and creditors that are not financial institutions.	Yes, although private equity funds generally do not borrow at the fund level.	No recommendation at this time.

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Identity of and dollar amount owed to each creditor to which the fund owed an amount greater than 5% of the net asset value of the fund.	Yes, although private equity funds generally do not borrow at the fund level, it is unclear what benefit this additional information will provide, and funds may not know the identity of assignees or participants or indirect owners of debt. See Form PF Comment Letter, pp. 17 – 18.	Eliminate this requirement. If required, require identification only of direct lenders of more than 5% of the net asset value of the fund and do not require identification of indirect lenders (e.g., if the debt has been securitized or syndicated).
Aggregate value of all derivative positions of the fund.	Yes, but private equity funds generally do not purchase derivatives. See Systemic Risk Comment Letter, p. 6.	No recommendation at this time.
Total number of beneficial owners of the fund's equity interests	Record holders will be known to funds, but indirect beneficial owners may not be known. It is unclear what benefit this requirement provides to regulators, especially where the owners are limited partners that are qualified purchasers as defined in Section 2(a)(51) of the Investment Company Act ("QPs") or employees of the issuer.	Require only disclosure of record owners (and, if regulators deem necessary, the beneficial owners thereof known to the fund), not beneficial owners. Notwithstanding the foregoing, do not require disclosure of equity owners that are QPs or employees.

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Percentage of the fund's equity that is owned by the five largest beneficial owners.	See above.	Permit calculation of ownership based on the largest record owners and their known affiliates.
Monthly/Quarterly/Annual percentage change in fund's net asset value (with and without performance fees or other charges).	Private equity funds generally hold illiquid assets for long periods of time, and write up and write down holdings only infrequently. The cost basis of a fund's portfolio only changes slowly over time as investment are made or disposed of. Private equity funds almost never value their assets on a monthly basis for financial reporting or other purposes. They often do value assets quarterly (for the purpose of producing unaudited financial statements), but they generally only undertake a "full blown," rigorous valuation process annually. See Form PF Comment Letter, pp. 19 – 20.	Limit to annual changes for private equity funds.

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
C. Section 4	See comment 2.B above.	See recommendation 2.B above.
i. Fund Level Borrowing	Private equity funds generally do not borrow at the fund level. See Systemic Risk Comment Letter, p. 6.	Eliminate quarterly and, ideally annual, reporting requirement.
Total outstanding balance (as a dollar value) of all loan or other borrowing facilities of the fund.	See comment 2.C.i above.	See recommendation 2.C.i above.
Total outstanding balance (as a percentage of the fund's unfunded commitments) of all loan or other borrowing facilities of the fund.	See comment 2.C.i above.	See recommendation 2.C.i above.
Total value (as a dollar value) of all guarantee obligations of the fund to any portfolio company.	See comment 2.C.i above.	See recommendation 2.C.i above.
Total value (as a percentage of the fund's unfunded commitments) of all guarantee obligations of the fund to any portfolio company.	See comment 2.C.i above.	See recommendation 2.C.i above.

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
ii. Portfolio Company Borrowing	Borrowing by businesses (including portfolio companies) that are not themselves financial companies should not be a focus of systemic risk reporting. If, nevertheless, reporting on leverage at all American businesses is desired, lenders are best suited to provide such information (and can provide more complete information, about all companies and not just the small subset owned by private equity funds). Furthermore, there is no reason to limit this reporting to businesses owned by private equity funds. See Form PF Comment Letter pp. 7 – 8. Obtaining, standardizing and reporting that information will be more burdensome than the SEC anticipates. See Form PF Comment Letter, p. 18.	Eliminate this requirement. If, however, the SEC concludes that it is authorized to collect and must collect this information, obtain any required information from lenders with respect to all leveraged companies (not just those owned by private equity funds).

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
Weighted average of the debt-equity ratio of the portfolio companies controlled by the fund (<i>i.e.</i> , weighting based on gross assets of each controlled portfolio company as a percentage of the aggregate gross assets of the fund's controlled portfolio companies).	See comment 2.C.ii above.	See recommendation 2.C.ii above.
Highest and lowest debt-to-equity ratios of any controlled portfolio company of the fund.	See comment 2.C.ii above.	See recommendation 2.C.ii above.
Breakdown of the principal amounts of the indebtedness of the fund's controlled portfolio companies by maturity (6 months or less, 6 months to 1 year, 1 year to 2 years, 2 years to 3 years, more than 3 years).	See comment 2.C.ii above.	See recommendation 2.C.ii above.
iii. PIK AND ZERO-COUPON DEBT	See comment 2.C.ii above.	See recommendation 2.C.ii above.
Percentage of aggregate indebtedness of the fund's controlled portfolio companies that is payment-in-kind (PIK) or zero-coupon debt.	See comment 2.C.ii above.	See recommendation 2.C.ii above.

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
iv. DEFAULTS	There is no financial interconnectedness between the fund and its portfolio companies (other than a debt or equity investment), or between one portfolio company and another (e.g., no cross guarantees or cross defaults). See Systemic Risk Comment Letter, pp. 10 – 11.	Eliminate this requirement.
Defaults of the fund or any portfolio companies under any indenture, loan agreement or other instrument evidencing obligations for borrowed money.	See above.	See above.
v. Bridge Financing	No need to single out bridge financing over other leverage practices and, as discussed above, no need to focus on only private equity-owned portfolio companies. See Form PF Comment Letter, pp. 4 – 7.	Eliminate this requirement.
Identity of the creditor and outstanding amount (if drawn) or commitment amount (if not drawn) for any bridge loan or commitment to a controlled portfolio company of the fund.	See above.	See above.

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
vi. Financial Industry Portfolio Companies	No need to single out private equity owners over other equity owners. See Form PF Comment Letter, pp. 9 – 10.	Any required information should be obtained directly from the financial institution.
Name, address, NAICS code and LEI (if any) for each portfolio company of the fund in the financial industry.	See comment 2.C.vi above.	See recommendation 2.C.vi above.
Debt-to-equity ratio of each financial industry portfolio company.	See comment 2.C.vi above.	See recommendation 2.C.vi above.
Percentage of fund's gross assets invested in each financial industry portfolio company.	See comment 2.C.vi above.	See recommendation 2.C.vi above.
Percentage of each financial industry portfolio company owned by the fund.	See comment 2.C.vi above.	See recommendation 2.C.vi above.

<u>Item</u>	Notes on Applicability to Private Equity	PEGCC Recommendation for SEC Action
vii. Distribution of Investments	There is no justification for why diversification information is required for the assessment of systemic risk, in the absence of interconnectedness, size, leverage or substitutability. See Form PF Comment Letter p. 19.	Eliminate this requirement.
Breakdown (as a percentage of the fund's gross assets) of the fund's investments by industry (based on NAICS codes of its portfolio companies).	See comment 2.C.vii above.	See recommendation 2.C.vii above.
Breakdown (as a percentage of the fund's gross assets) of the fund's investments by country (based generally on jurisdiction of organization of the issuer).	See comment 2.C.vii above.	See recommendation 2.C.vii above.

PROPOSED PRIVATE EQUITY FUND DEFINITION

In its Form PF comment letter, the PEGCC proposed a definition of "private equity fund" substantially in the following form: A private equity fund is a private fund that (1) does not provide investors with redemption rights in the ordinary course, (2) calculates incentive fees or allocations (carried interest) based primarily on gains realized from sales or other dispositions of portfolio investments and (3) does not have outstanding at any time indebtedness having a principal amount in excess of twice the private fund's funded and unfunded capital commitments. For purposes of clarity, the term "indebtedness" refers to indebtedness directly incurred or guaranteed by the private fund and does not refer to indebtedness incurred or guaranteed by any entity in which the private fund owns an interest.