August 6, 2018

Brent Fields
Secretary
U.S. Securities & Exchange Commission
100 F Street NE
Washington, D.C. 20549-1090

**Re: Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation – File No. S7-09-18**

Dear Mr. Fields:

The Institutional Limited Partners Association ("ILPA"), appreciates the opportunity to provide comments to the U.S. Securities & Exchange Commission ("Commission" or "SEC") in response to the Proposed Interpretation Regarding Standard of Conduct for Investment Advisers and Request for Comment on Enhancing Investment Adviser Regulation ("Proposed Interpretation").[1] The focus of our letter is to seek additional clarity and address concerns in the Proposed Interpretation about the fiduciary duties owed by investment advisers advising private funds, duties greatly relied upon by our members and necessary for a robust and vibrant private equity market.

ILPA is the voice of institutional investors in the private equity asset class, known as Limited Partners ("LPs"). Our 470+ member institutions represent over $2 trillion in private equity ("PE") assets under management and include U.S. and global public and private pension funds, insurance companies, university endowments, charitable foundations, family offices and sovereign wealth funds, all of which invest in the U.S. private equity market.[2] LPs provide the capital that fuels private equity and venture capital investment, generating economic growth and job creation, across America and around the world. In addition to providing this critical capital for economic growth, LPs

[1]Proposed Commission Interpretation Regarding Standard of Conduct for Investment Advisers; Request for Comment on Enhancing Investment Adviser Regulation, SEC Rel. IA-4889, File No. S7-09-18 (Apr. 18, 2018).
[2]As an illustration of the members we represent, the ILPA Board of Directors includes representatives from: Guardian Life Insurance Company, Teacher Retirement System of Texas, Oregon State Treasury, Washington State Investment Board, California State Teachers Retirement System (CalSTRS), Tufts University Investment Office, and the Alaska Permanent Fund Corporation, among others: https://ilpa.org/who-we-are/board-of-directors/

are the trusted financial stewards investing the assets of average Americans in a class of investments consistently providing high investment returns so that they may enjoy financial security and comfort. Limited partner beneficiaries include teachers, first responders, students receiving university scholarships, charity recipients, and insurance policyholders, among others. ILPA is based in Washington, D.C. with additional offices in Toronto.

ILPA is strongly supportive of the requirement that investment advisers to private equity funds (known as General Partners or "GPs") be registered under the Investment Advisers Act of 1940 ("Advisers Act") and be subject to the regulations under that law, including fiduciary duties. SEC oversight of the private equity industry has encouraged more transparency and disclosure and provided greater assurance to LPs that GPs will act in accordance with their fiduciary duties. We believe the Proposed Interpretation will provide more certainty regarding the fiduciary duties owed by private fund advisers to their clients. We also encourage the SEC to go further to clarify and address certain significant concerns and challenges specific to the private fund adviser context that are distinct from the retail adviser environment. Once these issues are addressed in the final version of the Proposed Interpretation, we encourage the Commission to formally codify the final interpretation into SEC regulation.

## I. The Proposed Interpretation Provides Helpful Clarity about the Duty of Loyalty and Required Disclosures of Adviser Conflicts of Interest

The Proposed Interpretation helpfully provides a broad overview of the fiduciary duties owed by an investment adviser to their clients, that has previously been outlined over many years through various court decisions, SEC releases and rulemakings.[3] An issue of particular importance to ILPA's members and private fund investors, however, is the level to which an investment adviser may disclaim or diminish their fiduciary duties under the law in the state in which the private fund is domiciled, most commonly Delaware.

We applaud the Commission for providing significant guidance and detail on the obligations owed by investment advisers under the Advisers Act. In particular, we appreciate the helpful guidance regarding the requirement that "an investment adviser [must] put its client's interests first" and that in seeking to meet its duty of loyalty:

> an adviser must make full and fair disclosure to its clients of all material facts relating to the advisory relationship. In addition, an adviser must seek to avoid conflicts of interest with its clients, and, at a minimum, make full and fair disclosure of all material conflicts of interest that could affect the

[3] Proposed Interpretation at 6, f.n. 10.

> advisory relationship. The disclosure should be sufficiently specific so that a client is able to decide whether to provide informed consent to the conflict of interest...[b]ecause an adviser must serve the best interests of its clients, it has an obligation not to subordinate its clients' interests to its own. For example, an adviser cannot favor its own interests over that of a client…[a]ccordingly, the duty of loyalty includes a duty not to treat some clients favorably at the expense of other clients.[4]

This duty of loyalty is critical to LPs, given the increased diversity of GP services that has accompanied the growth and maturation of this asset class. As the private equity industry has grown, many GPs have dramatically expanded their business lines, effectively becoming large asset managers. The increased scale and breadth of private fund advisers' activities, as well as the varying types of clients and funds they advise, has resulted in a concurrent rise in potential and actual conflicts of interest[5], and therefore greater risk of breaching their duty of loyalty.

Since 2014, there have been 18 SEC enforcement actions against private fund advisers that were found to have breached their fiduciary duties.[6] Many of these enforcement

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[4] *Id.* at 15-17.

[5] "Conflicts of interest are a particularly important challenge for large financial institutions and asset managers with complex structures. Due to these firms' extensive affiliations and the dynamic nature of their businesses, conflicts are constantly arising and changing." *See* Michael Sakala and Daniel New, *Managing conflicts of interest in the alternative investment industry,* Ernst & Young, September 2013, *available at:* [https://www.ey.com/Publication/vwLUAssets/EY_-_Conflicts_of_interest_in_alternative_investment/$FILE/EY-conflicts-of-interest.pdf](https://www.ey.com/Publication/vwLUAssets/EY_-_Conflicts_of_interest_in_alternative_investment/$FILE/EY-conflicts-of-interest.pdf)

[6] The cases where private fund advisers were found to have breached their fiduciary duties by the SEC include: *In the Matter of THL Managers V, LLC and THL Managers VI, LLC* (June 29, 2018) (Failed to disclose accelerated monitoring fees); *In the Matter of Aisling Capital, LLC* (June 29, 2018) (Failed to offset consulting fees charged to investors); *In the Matter of WCAS Management Corp. (*April 24, 2018) (Failed to disclose conflicts of interest between adviser & clients); *In the Matter of TPG Capital Advisers, LLC,* (December 21, 2017) (Failed to disclose accelerated monitoring fees ); *In the Matter of Capital Dynamics, Inc.,* (August 16, 2017) (Inappropriately charged management expenses to the fund/investors); *In the Matter of SLRA Inc., as successor to Liquid Realty Advisors III, LLC and Scott M. Landress,* (February 7, 2017) (Failure to disclose fees and expenses); *In the Matter of Centre Partners Management, LLC* (January 1, 2017)(Failure to disclose potential conflicts of interest and omission of material facts); *In the Matter of New Silk Route Advisors, LP* (December 14, 2016)(failure to obtain LPAC consent for co-investments); *In the Matter of Apollo Management V, VI, VII and Apollo Commodities Mgmt, LP.* (August 23, 2016) (Failure to disclose accelerated monitoring fees, failing to disclose accrued allocation of accrued interest from a loan would benefit only one fund); *In the Matter of JH Partners, LLC* (November 23, 2015) (Favoring one client over another, failure to disclose conflicts of interest, failure to obtain consent from LPAC on investments outside LPA coverage); *In the Matter of Cherokee Investment Partners, LLC and Cherokee Advisers, LLC,* (November 5, 2015) (Failure to disclose funds would be charged for GP legal and compliance expenses); *In the Matter of Fenway Partners, LLC et. al., (*November 3, 2015) (Failure to disclose conflicts of interest regarding use of outside consultants and application of fee offsets); *In the Matter of Blackstone Management Partners LLC, III and IV,* (October 7, 2015) (Failure to disclose accelerated monitoring fees, failure to disclose disparate legal fee discount between GP and Fund); *In the Matter of Guggenheim Partners Investment Management, LLC* (August 10, 2015) (Failure to disclose that

actions were against well-known and significant GPs, managing billions of dollars in assets. Most of these actions highlighted the breach of the duty of loyalty, and most significantly the *failure to disclose* either real or potential conflicts of interest or inappropriately charged fees & expenses. While these actions are believed to have deterred other advisers from engaging in similar breaches of fiduciary duty, they have also resulted in a "mountain" of disclosures in the limited partnership agreements (LPAs) and Private Placement Memorandums (PPMs) drafted by investment advisers. These complex and opaque documents do not present these disclosures in a standardized way, and often fail to ensure that LPs are clearly informed about the various conflicts that an adviser has or may have, or the fees and expenses that will be charged. As a result, it is often difficult for an LP, even a sophisticated LP, to truly give informed consent when confronted with written LPA terms and PPM disclosures that are broad, opaque, voluminous, inclusive of comprehensive possibilities or potential conflicts that are not thought to be relevant, complex, and sometimes contradicted by the oral statements of the investment adviser.

a. **The SEC Should Provide More Clarity on the Requirements for "Informed Consent" and Require a Delivery of a Conflict of Interest Summary to Institutional Investors in Private Funds**

Given these market realities, we appreciate the Proposed Interpretation's clarity on informed disclosure and believe it takes the right approach towards addressing the opacity and complexity of the conflicts of interest in the private equity marketplace. We would support going further to, as suggested in the Form CRS proposal for retail investors, requiring that a private fund adviser also provide a detailed summary of conflicts of interest to their investors to further address the requirement to have "informed consent." We would suggest this be in a structured format, developed with industry, to ensure effective disclosure and "informed consent."

The Commission is correctly applying the ruling in *SEC v. Capital Gains*, by requiring that an adviser "at a minimum, [must] make full and fair disclosure to its clients of all material conflicts of interest that could affect the advisory relationship."[7] Also, the Proposed Interpretation correctly points out that disclosure of a conflict alone is not always sufficient

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an executive received a loan to personally participate in a Guggenheim acquisition, inadvertently billing a client for management fees on non-managed assets); *In the Matter of Kohlberg Kravis Roberts & Co, LP, (*June 29, 2015)(Failing to allocate broken deal expenses to co-investors rather than fund); *In the Matter of Alpha Titans LLC et. al.,* (April 29, 2015) (Using fund assets to pay expenses without clear authorization in the LPA); *In the Matter of BlackRock Advisors, LLC,* (April 20, 2015) (Failing to disclose conflict of interest involving the outside business activity of a portfolio manager); *In the Matter of Lincolnshire Management*, *Inc.,* (September 22, 2014) (Failing to follow expense allocation policy in LPA).

[7] Proposed Interpretation at 17.

to satisfy the investment adviser's duty of loyalty under the Advisers Act.[8] Clients must be provided with "sufficiently specific facts so that the client is able to understand the adviser's conflict of interest and business practices well enough to make an informed decision…and an adviser disclosing that it 'may' have a conflict is not adequate disclosure when the conflict exists."[9] Further, the SEC states that:

> [I]t would not be consistent with an adviser's fiduciary duty to infer or accept client consent to a conflict where either (i) the facts and circumstance indicate that the client did not understand the nature and import of the conflict, or (ii) the material facts concerning the conflict could not be fully and fairly disclosed. For example, in some cases, conflicts may be of a nature and extent that it would be difficult to provide disclosure that adequately conveys the material facts or the nature, magnitude and potential effect of the conflict necessary to obtain informed consent and satisfy an adviser's fiduciary duty. In other cases, disclosure may not be specific enough for clients to understand whether and how the conflict will affect the advice they receive. With some complex or extensive conflicts, it may be difficult to provide disclosure that is sufficiently specific, but also understandable, to the adviser's clients. In all of these cases where full and fair disclosure and informed consent is insufficient, we expect an adviser to eliminate the conflict or adequately mitigate the conflict so that it can be more readily disclosed.[10]

There are significant issues with real and potential conflicts of interest with private fund advisers. Ensuring increased clarity of disclosures and enhanced understanding of these conflicts has been both a priority of the Commission[11] and ILPA. The language above is significantly helpful to make clear what is required of the investment adviser in making their disclosure, and in confirming that not all conflicts may be readily understood by LPs. In that vein, ILPA supports a requirement like that proposed in Form CRS, to require a clear and detailed listing of all potential and actual conflicts of interest of a private fund adviser, to be provided to their investors.

## II. Further Action and Clarity is Needed Regarding the Application of Fiduciary Duties to Investors in Private Funds

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[8] *Id.*
[9] *Id.* at 18.
[10] *Id.* at 18-19.
[11] Carlo v. di Florio, *Speech by SEC Staff: Private Equity International's Private Fund Compliance,* U.S. Securities & Exchange Commission (May 3, 2011)., *available at:* *https://www.sec.gov/news/speech/2011/spch050311cvd.htm*

While the Proposed Interpretation is helpful in many areas, it should go further to emphasize the fiduciary duties owed by private fund advisers. The current interpretation is highly retail-focused, given the dual role of the Advisers Act in covering retail advisers as well as investment advisers to private funds. We believe this provides an important and necessary opportunity for the SEC to ensure that the fundamental principles of the Advisers Act are also applied to private fund advisers, given the industry trend toward the limitation of fiduciary obligations of private fund advisers under state law. The trend of increased utilization of these "hedge clauses" under state law is extremely harmful to investors, and the fundamental fiduciary duties that are the tenets of the Advisers Act. These clauses are only permissible because of relief granted by the Commission through the Heitman Capital Management no-action letter that was issued in 2007.[12] Therefore, we encourage the SEC to rescind the Heitman Capital Management no-action letter and clarify that private fund advisers should not be permitted to disclaim their fiduciary duties under state law in the LPA.

### a. The SEC Should Revert to Their Pre-2007 Position on "Hedge Clauses" and Prevent Advisers from Disclaiming Their Fiduciary Duties under State Law

Increasingly, LPs have seen a noteworthy increase in GPs seeking to waive their fiduciary duties owed to investors under Delaware law, where many private funds are structured.[13] This is increasingly common in the case of venture and energy funds, as well as private equity funds. Eliminating or significantly modifying fiduciary requirements under state law is particularly concerning because there is a limited private right of action under the Advisers Act, and investors in a private equity fund are locked up for a significant number of years (with 15 years not being out of the ordinary) with limited withdrawal rights. In 2007, the SEC issued a no-action letter which magnified this issue by giving safe harbor to investment advisers that incorporate so-called "hedge clauses" into their LPAs, limiting their liability including their fiduciary duties. Both changes have resulted in a "perfect storm" that negatively impacts investors in private funds, and results in unnecessary potential litigation[14] and significantly reduced investor protection.

[12] Heitman Capital Management, LLC, SEC Staff No-Action Letter (February 12, 2007).
[13] Note, this may also occur in other jurisdictions besides Delaware, including the Cayman Islands, Channel Islands and Luxembourg, among others. We would encourage the SEC to extend this to any private fund adviser under their purview, regardless of the domicile in which that fund entity is structured.
[14] The opportunity for litigation to occur has increased because previously hedge clauses were not permissible, and under the no-action relief granted by the Commission in Heitman Capital Management, the Commission permitted hedge clauses for the first time, but stated that whether they would be permissible depending on the "facts and circumstances" of the particular clause language. As a result, what was once clear in the contract, is not a litigable issue to be addressed, reducing economic efficiency, increasing litigation costs, and burdening the courts.

We encourage the SEC to rescind this no-action letter to prevent the continued abuse of the objectives of the Advisers Act and ensure that the fiduciary duties owed to private fund investors are clear. At the very least, the Commission should address clearly in the Proposed Interpretation the specific requirements by which a "hedge clause" is permissible in an LPA, particularly in terms of "informed consent" by LPs.

1. <u>The GP and Investment Adviser Are Treated as the Same Entity Under Current Legal Precedent</u>

Currently many private funds are structured as partnerships, with a General Partner that manages the investment activities, contributes financially and enjoys participation in the financial returns from the fund. Limited Partners are not, by definition, engaged in the management of the fund's investment activities, while receiving financial returns from the fund. In some cases, funds are structured as limited liability companies, with the role of the GP outlined above being taken over by the managing member of the LLC. In almost all cases, the GP or the managing member of the partnership is a special purpose entity that contracts out the actual management of the fund to a separate investment adviser. Current legal precedent supports the view that the GP should be treated as synonymous with the investment adviser to the fund.[15] As highlighted in *United States v. Onsa,* "In *Abrahamson v. Fleschner*…we held that a general partner of an investment fund 'who managed the partnership's investment'…and received a portion of the firm's profits as compensation…fell within the definition of an investment adviser."[16] While current federal case law has clearly held that a GP is synonymous with an investment adviser if it is managing the fund's investment and receiving a portion of the fund's profits as compensation, the Proposed Interpretation fails to highlight this. As the fiduciary duty of an investment adviser flows from Section 206 of the Advisers Act, this should necessarily extend beyond that of the investment adviser itself to the GP entity as well.[17] Moreover, Congress, when drafting the Advisers Act, did not intend for investment advisers to engage in regulatory arbitrage between federal and state law.[18] The Advisers Act should therefore preempt the ability for a GP to disclaim its fiduciary duties under state law in the LPA, if it were not for the no action relief granted by the Commission in *Heitman Capital Management.* This no-action relief permits advisers to include so-called "hedge clauses" in their contracts with investors.

[15] *Abrahamson v. Fleschner,* 568 F.2d 862 (2nd Cir. 1977) *overruled in part on other grounds by Transam. Mortg. Advisors, Inc. v. Lewis,* 441 U.S. 11 (1979).
[16] *United States v. Onsa,* No. 12-3427-cr, (2nd Cir. 2013), *citing Abrahamson v. Fleschner,* 568 F.2d 862, 866, 870-71 (2nd Cir. 1977).
[17] *See SEC v. Berger,* 244 F. Supp. 2d 180 (S.D. N.Y 2001).
[18] J. Tyler Kirk, *A Federal Fiduciary Standard Under the Investment Advisers Act of 1940: A Refinement for the Protection of Private Funds,* HARVARD BUSINESS LAW REVIEW (December 6, 2016), *available at:* http://www.hblr.org/wp-content/uploads/2016/12/T.-Kirk_Private-Funds-FD-Published-2.pdf

2. The No Action Relief Granted by the SEC in Heitman Capital Management Permitted Investment Advisers to Disclaim Their Duties under the Advisers Act

Prior to 2007, the SEC had "taken the position that hedge clauses that purport to limit an investment adviser's liability to acts involving gross negligence or willful malfeasance are likely to mislead a client who is unsophisticated in the law into believing that he or she has waived non-waivable rights, even if the hedge clause explicitly provides that rights under federal or state law cannot be relinquished." [19] On February 12, 2007, the SEC issued no-action relief which permitted a investment adviser to disclaim fiduciary duties (and limit the advisers' liability to their investors) in an LPA. This is subject to the "facts and circumstances" including "the form and content of the particular hedge clause (e.g., its accuracy), any oral or written communications between the investment adviser and the client about the hedge clause, and the particular circumstances of the client."[20] Where previously, the disclaimer of fiduciary duty under state law in an LPA would be *per se* a violation of the Advisers Act, this now become a rebuttable presumption subject to judicial interpretation. Something that was previously clear under the Advisers Act has now become something to be litigated in federal court, resulting in less certainty in the marketplace, and a reduction in investor protection, in contravention of the SEC's mission. This, combined with changes to Delaware uniform partnership and limited liability company law, has significantly reduced the obligations of a manager to act in the best interests of its investors and has also driven up legal cost and uncertainty for investment advisers and LPs in the private fund marketplace.

3. Changes in Fiduciary Duty Requirements Under Delaware Law and Through SEC Action Have Caused Significant Harm to Investors & Loss of the Federal Protections Intended under the Advisers Act

In 2004, the Delaware legislature enacted laws that permitted GPs and LLC Managing Members to disclaim their fiduciary duties of care, loyalty and good faith owed to LPs and LLC members. [21] Prior to 2004, Delaware, where many partnerships and LLCs are domiciled, required fundamentally the same fiduciary duty obligations for GPs as those for investment advisers under the Advisers Act. "By contractually waiving fiduciary obligations, a fund manager 'has almost no extracontractual constraints on it'…the limited partners are left to rely upon the 'implied covenant of good faith and fair dealing, which is

[19] *Heitman Capital Management* at 3-4.
[20] *Id.* at 4.
[21] Courtney Nowell, Matthew Cohen and Brooke LoCoCo, *A Call to Duty: Waivers of Fiduciary Duty under Delaware Law,* Squire Patton Boggs, Vol. 22, No. 7, July 2015, *available at:* www.squirepattonboggs.com/~/media/files/insights/publications/2015/07/a-call-to-duty-waivers-of-fiduciary-duty-under-delaware-law/a_call_to_duty_waivers_fiduciary_duty_under_delaware_law.pdf

explicitly protected within the Delaware statutes, but seldom found by the Delaware courts as a source of protection." [22] The resulting Delaware legislation was much more aggressive than the corresponding law in the Cayman Islands (where many private funds are domiciled) in permitting the modification or effective elimination of fiduciary duty requirements.[23] This, combined with the relief received by private fund advisers in the Heitman Capital Management No-Action letter in 2007, has resulted in the increasing loss of fiduciary duty protections to LPs in the course of LPA negotiations.

This change in Delaware law and the Commission no-action relief has resulted in an explosion of efforts to modify or eliminate fiduciary duties, to the disadvantage of LPs and in contravention of the aims of the Advisers Act. While the impact of these legal changes was not immediately felt in the private equity marketplace due to the Great Recession, as the market has rebounded, the legal terms have becoming immensely more challenging. This has been exacerbated by the current fundraising environment, which is characterized by unprecedented fund raising levels and speed, where GPs have significant leverage in negotiations, and many LPs, particularly public pensions, are forced to deploy capital under disadvantaged terms in order to achieve certain performance thresholds designed to allow them to meet their pension and other disbursement requirements.[24] LPs, including even the nation's largest public pensions, with correspondingly reduced leverage in negotiations, have continued to face a market where they are forced to accept these reductions in the applicability of basic duties of fairness, loyalty and good faith owed to them by the investment advisers they invest with. This is extremely harmful to LPs and their beneficiaries and prevents them from addressing wrongdoing by an adviser through self-help, while also conflicting with the goals of the Advisers Act at the federal level. As many of these investors need to deploy their capital to meet their obligations to their beneficiaries, they are unable to walk away from these investment terms while still meeting their funding obligations.

Moreover, there is a heightened risk for private pension plans investing with private fund managers that seek to disclaim their fiduciary duties. Under the Employee Retirement Income Security Act ("ERISA"), pension plan managers that delegate investment

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[22] *Id.* at 2.

[23] "[T]he conclusion must be that Cayman law does not go as far as Delaware in permitting an ELP's partnership agreement to exclude entirely the GP's duty to take into account the interest of the ELP." *See* Giorgio Subiotto, *Keeping the Faith: What is the duty of a GP managing a Cayman exempted limited partnership?,* Ogier, September 10, 2015, ***available at:*** https://www.ogier.com/publications/keeping-the-faith-what-is-the-duty-of-a-gp-managing-a-cayman-exempted-limited#

[24] "While many in the industry anticipated 2017 would be another strong year for private equity fundraising, I suspect few would have predicted that 2017 would witness the largest amount of capital ($453 bn) raised in any year." *See* Christopher Elvin, *Private Equity in 2018,* 2018 Preqin Global Private Equity & Venture Capital Report, 15, ***available at:*** http://docs.preqin.com/reports/2018-Preqin-Global-Private-Equity-Report-Sample-Pages.pdf

discretion to fund managers, can only do so to registered investment advisers, acknowledging in writing that the adviser is a fiduciary with respect to the pension plan.[25] For example:

> If the fiduciary institutional investor delegates, but then waives, fiduciary duty for the general partner or investment manager and/or provides substantial other exculpation and indemnification protection as to create a de facto elimination of fiduciary duty, there is no one left with any fiduciary duty at all. This waiver could be seen by a court as a backdoor method for eliminating the entire fiduciary duty of the plan sponsor or trustees, which might be in violation of state or federal law and public policy. What are being bargained away, indeed if there is any bargaining at all, are fundamental fiduciary principles.[26]

Addressing this complex issue through the Proposed Interpretation—i.e., preventing the waiver of Advisers Act fiduciary duties under state law—would benefit investors in the asset class and the marketplace as a whole. Many LPs would be freer to invest more capital into private funds if they did not have to rely on their ability to negotiate these concessions in the LPA. Finally, addressing this issue would be good public policy, upholding the fundamental principles in place since 1940 and before; that an investment adviser owes its investors a duty of care, duty of loyalty and duty of good faith.

We look forward to working with you to address the issues around fiduciary duty in the private equity market and as you work to finalize the Proposed Interpretation.

Sincerely,

Steve Nelson
Chief Executive Officer
Institutional Limited Partners Association (ILPA)

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[25] *Id.* at 3.

[26] Jeffrey E. Horvitz, *Fiduciary duty waivers of LPs may expose sponsors,* PENSIONS & INVESTMENTS, October 14, 2013, *available at:* http://www.pionline.com/article/20131014/PRINT/310149994/fiduciary-duty-waivers-of-lps-may-expose-sponsors

cc. The Honorable Jay Clayton
The Honorable Kara M. Stein
The Honorable Michael Piwowar
The Honorable Robert J. Jackson, Jr.
The Honorable Hester M. Peirce

Dalia Blass, Director, Division of Investment Management