MANAGED FUNDS ASSOCIATION
The Voice of the Global Alternative Investment Industry
WASHINGTON, DC | NEW YORK

July 8, 2011

VIA EMAIL

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Investment Adviser Performance Compensation; File Number S7-17-11

Dear Ms. Murphy:

Managed Funds Association ("MFA")[1] appreciates the opportunity to provide comments in response to the Securities and Exchange Commission's (the "SEC") proposal, "Investment Adviser Performance Compensation," which would amend Rule 205-3 under the Investment Advisers Act of 1940 (the "Advisers Act").[2] MFA strongly supports the goal underlying Section 418 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") and the proposed amendments, to ensure that private funds are sold only to sophisticated investors.

MFA worked constructively with policy makers during the legislative process to develop an appropriate mechanism to ensure that the "qualified client" standard does not become diluted over time as a result of inflation. We believe that Section 418 is well designed to achieve that goal by requiring the SEC to adjust the dollar amount tests under Section 205 of the Advisers Act for the effects of inflation within one year of the enactment of the Dodd-Frank Act, and every five years thereafter.

We support the SEC's proposal to implement Section 418 by increasing the assets under management threshold in Rule 205-3 to $1 million and the net worth threshold to $2 million, and by issuing an order every five years to adjust the thresholds to account for inflation. We also agree with the proposal to exclude the value of a natural person's primary residence from the determination of a person's net worth, as this would more closely align the calculation with the definition of "accredited investor" in Rule 501 under the Securities Act of 1933 and "qualified purchaser" in Section 2(a)(51) of the Investment Company Act of 1940, and help to ensure that only sophisticated investors are able to purchase interests in private funds.[3]

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[1] MFA is the voice of the global alternative investment industry. Its members are professionals in hedge funds, funds of funds and managed futures funds, as well as industry service providers. Established in 1991, MFA is the primary source of information for policy makers and the media and the leading advocate for sound business practices and industry growth. MFA members include the vast majority of the largest hedge fund groups in the world who manage a substantial portion of the approximately $1.9 trillion invested in absolute return strategies. MFA is headquartered in Washington, D.C., with an office in New York.

[2] Investment Advisers Act Rel. No. 3198, 76 Fed. Reg. 27959 (May 13, 2011).

[3] *See* Net Worth Standard for Accredited Investors, Securities Act Rel. No. 9177, 76 Fed. Reg. 5307 (Jan. 31, 2011).

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We also strongly support the proposed transitional relief that would ensure that the new threshold levels do not apply retroactively and affect an investment adviser's existing contractual arrangements. In particular, we appreciate that the proposed rule amendments would provide relief to advisers that are currently exempt from registration with the SEC and will be required to register as a result of the amendments to the Advisers Act in Title IV of the Dodd-Frank Act. This transitional relief, which is similar to the relief that the SEC provided in connection with the hedge fund manager registration rule in 2004, is necessary to allow advisers to continue to operate their businesses without significant disruption.

The transitional relief as proposed, however, could affect the operations of a fund that relies on Section 3(c)(1) of the Investment Company Act (a "3(c)(1) fund") and invests in another 3(c)(1) fund. As you know, in complying with Rule 205-3, a 3(c)(1) fund must "look through" another 3(c)(1) fund that is an equity owner of the fund to its individual investors.[4] Under this "look through" analysis, the proposed amendments could be interpreted to lead to the anomalous result that a 3(c)(1) fund in compliance with Rule 205-3 and relying on the transitional relief for one or more of its investors would be effectively precluded from purchasing interests in another 3(c)(1) fund. Such a result would be significantly disruptive to the investment strategies and operations of many 3(c)(1) funds, and inconsistent with the goal of the transitional relief to apply the new thresholds prospectively. We recommend that the final rule clarify that a 3(c)(1) fund will be deemed to have satisfied Rule 205-3 if an equity owner of the fund that itself is a 3(c)(1) fund is in compliance with Rule 205-3.

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MFA appreciates the opportunity to provide comments to the Commission in response to the proposal. If you have any questions about these comments, or if we can provide further information, please do not hesitate to contact Matthew Newell, Assistant General Counsel, or the undersigned at (202) 730-2600.

Respectfully submitted,

/s/ Stuart J. Kaswell

Stuart J. Kaswell
Executive Vice President & Managing Director,
General Counsel

[4] *See* Exemption To Allow Investment Advisers To Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Investment Advisers Act Rel. No. 1731, 63 Fed. Reg. 39022 (July 21, 1998); EBF & Associates, L.P., SEC No-Action Letter (Dec. 22, 1993).