October 6, 2009

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. S7-18-09

Abbott Capital Management, LLC ("Abbott"), is a registered investment adviser, specializing in the creation and management of private equity portfolios. Abbott focuses exclusively on alternative assets by making investments in professionally managed private equity funds on behalf of separately managed accounts, including multiple government pension plans, as well as pooled investment vehicles operated as "funds of funds" with government pension plan investors. Abbott is writing to provide its perspective with respect to the current proposal by the Commission to prohibit investment advisers from making payments to a third party to solicit investment advisory business from a government entity.

Abbott strongly supports efforts by the Commission to implement regulation designed to curb the abusive activities, both unethical and illegal, of investment advisers and placement agents seen recently in the news. Abbott strongly agrees with the Commission that "pay to play" practices, when they exist, distort the process by which investment advisers are selected, create an uneven playing field for reputable investment advisers and can harm public pension plans and their beneficiaries. There is no room in our industry for investment advisers who believe that "back room" incentives or political contributions are an appropriate method by which to gain or solicit clients.

Abbott has a well-developed in-house marketing and client service capability and, as such, does not generally seek to engage placement agents to solicit potential clients or investors, whether governmental entities or otherwise. However, Abbott agrees with the statements and thoughts of many of the commentators regarding the Commission's proposal with respect to placement agents. Government entity investors are one of the private equity industry's largest sources of capital. The services of a reputable and knowledgeable placement agent can be valuable as a fund-raising resource to many fund managers seeking capital, especially emerging and smaller managers who cannot afford an in-house fundraising capability or managers seeking to expand their investor base with new contacts and relationships. As fiduciaries of many public pension systems have stressed in their own comments, placement agents provide a valuable service to private equity funds and their investors, including government entity investors, which should not be dismissed.

Due to the valid and beneficial services reputable placement agents provide to both fund managers and government entity investors, Abbott joins the ranks of other commentators in urging the Commission to reevaluate its current proposal in favor of a remedy for potential pay to play abuses short of a ban on the use of placement agents to solicit government entities.

The Commission's proposed placement agent prohibition could force investment advisers such as Abbott into a conflict situation between government pension fund clients and private clients. As a registered investment adviser, Abbott allocates suitable and attractive investment opportunities among its multiple clients in a fair and reasonable manner, taking into account investment criteria, diversification goals and return objectives. Would adherence to the Commission's current proposal force an investment manager such as Abbott to allocate a potentially attractive investment opportunity away from its government pension fund clients and only to its non-governmental clients merely because the private equity fund used a placement agent to solicit Abbott? Because Abbott represents government pension funds, would investment managers stop seeking us out altogether and focus on non-government pension fund money? Would Abbott be forced to turn down a potentially attractive investment opportunity for a government pension fund client merely because it happens to be brought to the adviser by a placement agent? These questions are fundamental in private equity where the difference between the top quartile performers and the bottom quartile performers is so pronounced, and the most sought after fund managers may only raise capital every 3 to 4 years. Without careful reconsideration, the proposed ban may become, in effect, a ban on the ability of a government pension plan to invest in a private equity fund that engages a placement agent and could therefore serve to create conflict and harm government pension plan investors and their investment portfolios more than protect them from abusive practices.

The government pension funds that employ Abbott as their investment manager expect us to review the broad and diverse universe of private equity funds and create a well-diversified portfolio with the best potential for attractive returns. The ability to consider all potential investment opportunities that fall within the parameters of a client's investment criteria is key to ensuring that the portfolio contains the most suitable investments for our clients. Abbott is concerned that the current proposal would limit the universe of potential investment opportunities based on one single criteria, i.e., whether or not they intend to pay or engage a placement agent. Abbott has developed extensive due diligence processes and procedures designed to ensure that the funds that Abbott invests in on behalf of its clients are the most suitable for the client and its portfolio. The role of the placement agent introduction and explanation of the opportunity is only one small part of any investment decision.

Abbott believes that the risk of pay to play abuses with respect to pooled investment vehicles, such as a fund of funds, with government pension plan investors is even more remote. Typically, investors in these vehicles have neither discretionary authority over the investments made nor any ability to unilaterally withdraw. Thus, the potential for pay-to-play abuses by a government pension fund employee is likely negligible, as the fund of funds manager has sole discretion and authority in respect of the investments made and cannot be pressured or forced to invest with a fund manager dictated by a minority government investor. The New York State Common Retirement Fund recognized this key distinction in its policy by applying a placement agent prohibition only to investment vehicles over which the Fund had ultimate investment authority.

Abbott appreciates the opportunity to comment on this proposed regulation and share our concerns with the Commission. Please feel free to contact Abbott at (212) 757-2700 to discuss any questions regarding Abbott's perspective.