



August 24, 2009

**By Email to [comments@sec.gov](mailto:comments@sec.gov)**

The Commissioners  
U.S. Securities and Exchange Commission  
100 F. ST. NE  
Washington, DC 20549

**RE: Political Contributions by Certain Investment Advisers  
17 CFR Part 275  
[Release No. IA-2910; File No. S7-18-09]  
RIN 3235-AK39**

To the Commissioners:

We wish to take the opportunity to comment on the proposed rule concerning “pay-to-play” practices by certain investment advisers.

#### **Thomas Capital Group Background**

Our firm, Thomas Capital Group, Inc. (“TCG” or “the Firm”), was established over eleven years ago. We are a registered broker-dealer, domiciled in the State of Washington with an additional branch office in Connecticut. We currently employ eleven persons. Four of these individuals are minorities and four are women.

TCG introduces alternative asset fund offerings to qualified institutional investors including trusts, endowments, corporate and public pension plans, and family offices. The Firm’s professionals are registered representatives and hold a number of FINRA securities licenses including Series 7, 24, 27 and 63, all of which require FINRA continuing education and adherence to a strict code of conduct. Four of the firm’s senior professionals are also Chartered Financial Analysts, which certification likewise demands a high standard of ethical conduct. The Firm has devoted significant resources monitoring adherence to supervisory, investor communication and anti-money laundering procedures, including policies governing gifts, entertainment and political contributions. A senior officer serves as the Firm’s compliance officer.

The Firm’s professionals are experienced investment and fund managers. We are not “finders” or “lobbyists” who capitalize on political contacts or contributions. We have never solicited politicians, trustees or investment board members for investment commitments from public or other funds. We only work with the professional investment staffs of the various institutional investors. We have never made political contributions to public representatives.

As a registered broker-dealer and professional placement agent, we are part of an industry that has evolved over the last 25-30 years, simultaneous with the emergence and rapid expansion of alternative investment fund managers and the institutional interest in such managers. Dow Jones publications list 80 of the more established placement agents, all of which are believed to be registered broker-dealers. These placement groups range from specialized divisions of large

brokerage firms to small and midsized independent firms, such as TCG, that are only in the placement business.

### **The Fundraising Process**

The fundraising process for alternative asset management firms is very time and resource intensive. Alternative asset fund managers often enter the market to raise capital only every 3-5 years. Most firms, and certainly those we represent, do not have the internal resources necessary to market and introduce themselves to the myriad of institutional investors. Prospective institutional investors, their investment staffs and investment interests change often, making it difficult for fund managers to track and maintain contact. We have assisted small firms grow their investment businesses, including minority-owned and women managers. These small and emerging firms could not possibly have reached the number of potential investors necessary to raise sufficient capital without the help of a professional placement agent.

In order to compete with large brand-name investment organizations with full time in-house marketing staffs, most alternative fund managers will hire a professional placement firm, such as TCG, because of its knowledge of the institutional investors, their investment staffs and the types of alternative assets in which they have an interest. These managers rely on firms such as ours to manage the periodic fundraising process, including:

- Providing ongoing advice on the structure, terms, and strategic positioning of the fund;
- Assisting in the preparation of marketing materials including the offering memorandum, investor presentation and due diligence materials;
- Contacting hundreds of institutional investors for whom the fund is suitable on behalf of each client;
- Scheduling and coordinating meetings with investment staffs.

Public pension funds typically operate with lean staffs and limited resources. They respect the institutional quality of the investment opportunities we and other professional placement agents introduce to them. Such opportunities are the product of extensive vetting, due diligence and preparation work done by the investment professionals within these placement firms. Our firm screens hundreds of managers to identify the few new managers we will introduce as clients to institutional investors. The reputations of legitimate placement agents depend heavily on their ability to:

- Find, qualify and introduce high quality investment opportunities;
- Help prepare high quality offering and marketing materials;
- Coordinate the logistics associated with due diligence meetings; and
- Facilitate the delivery of responses to due diligence questions and due diligence materials.

### **The Proposed Rule**

Having been a market participant for more than a decade, with professionals who have managed state funds and also have been investment managers of large alternative asset funds, we are well aware of the "pay-to-play" history. Everyone who expects investment assets to be managed in a professional and fiduciary manner is rightfully outraged by these actions. To our knowledge, every "pay-to-play" incident of record has involved a complicit senior public plan fund official. In fact, several public funds involved had approval processes that gave essentially sole or investment approval authority to one individual. While outside the SEC sphere of regulation and influence, we

know that stronger internal control procedures, segregation of duties and dispersed or committee approval would actually be highly effective in preventing these occurrences.

### **Unintended Consequences**

A ban on placement agents would have significant unintended consequences for public pension plans:

- The incremental effort by investment staffs to perform due diligence on promising but possibly ill-prepared investment managers will raise the cost and lessen the overall pension fund portfolio performance;
- Over time, investment portfolios will lose the benefits of strategy, sector, geographic and return diversification as only the largest funds would have the in-house marketing resources to efficiently introduce their fund offerings;
- Over time, women and minority-managed firms will become under-represented in investment portfolios; and
- The ban would very likely cripple many legitimate placement agents - most of who are currently regulated by the SEC and FINRA - as the public pension plans are the largest source of capital for alternative investments.

Placement agents are an effective and efficient way for fund managers, especially emerging and smaller managers, to reach interested investors. Additionally, our role allows fund managers more time to manage their funds, and afford investment staffs an efficient way to review a greater universe of possible investment opportunities.

### **What We Support**

We support the central objective of the proposed rule, which is the elimination of “pay-to-play” practices involving public investment monies. Yet the proposed rule does not address potential internal issues and conflicts within pension fund administration, and may in fact exacerbate the risks. For example, banning professional placement agents will not prevent investment officers and trustees from making “pay-to-play” solicitations directly to investment managers, nor will it prevent such direct solicitations by an investment manager. We would argue that the participation in capital raising by third-party, highly regulated professional marketing firms actually increases safeguards and has a positive impact on the behavior of all the parties to the process.

We believe that the SEC did not set out to put legitimate registered placement agents such as ours out of business when we have not participated either individually or as an industry in “pay-to-play” practices.

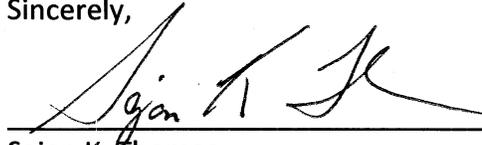
We strongly support enforcement of existing disclosure rules. And as a further reasonable step toward increased transparency in the investment and capital raising process, we support additional disclosure and a ban on political contributions. More specifically:

- We support the requirement that all placement agents be registered as broker-dealers, subject to all the associated SEC rules and examination;
- We support disclosure of the economic arrangement between a placement agent and fund manager related to a public pension plan investment;

- We support certification by the placement agent that it (and its employees) have not paid, directly or indirectly, any consideration to or for the benefit of any third party or public plan official in connection with the investment; and
- We support prohibition of political contributions (and solicitation of such) by placement agents, their employees and relatives.

Thank you for your consideration. We welcome the opportunity to discuss our views directly with the SEC Commissioners and staff.

Sincerely,



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Sajan K. Thomas  
President & CEO



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Stephen J. Myott  
Managing Director & Chief Compliance Officer