Wednesday, September 9th, 2009

Ms Elizabeth M Murphy
Secretary
United States Securities & Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. S7-18-09, Political Contributions by Certain Investment Advisors

Dear Ms Murphy,

I would like to provide you with our international perspective on the Securities and Exchange Commission's proposals on political contributions relating to placements at Public Pension Plans.

The European Private Equity & Venture Capital Association represents more than 1,300 private equity and venture capital firms operating across Europe and beyond. Our members invest primarily in European business, but service a global investor base. Indeed, some 30% of all capital raised by our private equity and venture capital member firms is North American money – a major share of which comes from institutional investors within the United States. US Public Pension Plans constitute some of the largest and most important type of investor in European private equity funds. Recent research[1] shows that around half of US Public Pension Fund have invested in funds pitched by placement agents, and this figure does not account for the very significant indirect contribution of agents to pension funds, via indirect advice to fund managers and to gatekeepers.

Confidence in the proper conduct of those engaged in the business of institutional fund placement is therefore necessary, not only for the ongoing health of American investments in European private equity and venture capital, but also to ensure that US Public Pension Plans are able to construct properly diversified portfolios, both in terms of geography and across fund sizes.

[1] Preqin Research Report; Potential Effects of SEC Proposed Rule Release; IA-2910 on the Private Equity Industry; August 2009

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The European Private Equity & Venture Capital Association shares the SEC's grave concerns regarding "pay-to-play" activities. There is unequivocal agreement among EVCA members that such activities have no place in the market.

At the same time, we believe just as firmly that the institutional placement industry has a legitimate and crucial place in the market for stakeholders on both sides of the Atlantic and indeed globally. We believe that an outright ban on the use of placement agents by public pension funds is unwarranted and could prove damaging to all stakeholders.

The good news is that there is a wide degree of separation between the business models of legitimate placement agents and the practices of political finders. This makes the process of drawing distinctions quite straightforward.

THE ROLE OF PLACEMENT AGENTS

Placement agents play a crucial role in ensuring that institutional investors such as US Public Pension Plans construct a properly diversified global investment portfolio. They bridge the gap between US Public Pension Plans that include some of the world's largest investment institutions – and the highly attractive but often localised opportunities across the global investment marketplace. US Public Pension Funds tend to be thinly-resourced, and as a consequence, rely heavily on agents and advisors. Placement agents work closely with Pension Plan advisers and play a vital role in providing US Public Pension Funds and their advisers with targeted access to high quality, high potential funds, which in turn has a positive impact on pension fund return profiles.

While placement agents operate across the size spectrum of private equity, the value of their services tends to become increasingly indispensable for accessing smaller managers. Such managers lack sufficient scale, internal resources or fundraising experience to engage with such investment monoliths. Nevertheless, smaller or emerging managers can often provide the most attractive returns, by operating under the radar of larger players, or being more fleet-of-foot in monetising emerging opportunities. A properly diversified portfolio of a US Public Pension Fund would include investment across geographic and business sector spectrums.

As part of this consultation, a number of US Public Pension Funds have noted their support of placement agents in this regard, including the State of Wisconsin Investment Board, Missouri State Employees Retirement System, Massachusetts Pension Reserves Investment Board, South Dakota Investment Council, and the former director of alternative investments at 'CALSTRS', Réal Desrochers.

To bridge this gap, placement agents provide professional guidance in a host of different ways.

Placement agents work with such managers to shape and present their fund offering in a way that is appropriate for the institutional investment marketplace. Typically, they help the manager identify suitable investors, narrowing their target investor base from a universe of institutions, to around 100. Placement agents help managers draft suitable private placement memorandum, due diligence materials, and put in place communications channels in order to respond in the most transparent and targeted way possible to potential and current investors. Often placement agents would attend investor meetings with the manager, and work with legal counsel and investors to co-ordinate the due diligence and necessary documentation in order to close the fund. In this way, placement agents help private equity and venture capital firms put in place the correct processes to ensure institutional investors receive high quality information in order to make informed investment decisions.

To-date, these relationship have worked well. Pension funds are the largest investors in private equity and venture capital funds. US pension funds contribute around 44% of all pension fund money invested in European private equity and venture capital funds, while US public pension funds account for more than half of all public pension fund money invested in European funds. These investments yield attractive returns as a general asset class. Most of this is intermediated by placement agents. Without the vital role played by placement agents it is likely that much of this money would not have found its way into European private equity and venture capital funds.

In short, placement agency is a professional and institutionalised industry that provides a broad array of fundraising services and market knowledge that enhances the professionalism and efficiency of the market for all stakeholders.

POLITICAL FINDERS

By contrast, there exist individuals, normally associated with just one Fund, that provide introductions or access to US Public Pension Funds in return for a political contribution – an activity known as “pay-to-play”. This practice is straightforward and straightforwardly wrong. Such activities distort the market, jeopardize pension fund returns and erode market confidence. Clear and tough measures should be taken against such abuses.

EVCA CODE FOR PLACEMENT AGENTS

In response to these concerns, which EVCA shares with the SEC, EVCA has introduced a Code of Conduct for Placement Agent members. This Code has been developed under the auspices of EVCA’s Professional Standards Committee, and in extensive consultation with US Public Pension Plans, gatekeepers and a broad spectrum of EVCA member institutional investors and fund managers. The Code also has the support of the US-based Institutional Limited Partners Association (ILPA). In drafting, EVCA took into consideration draft and final policy and legislation from a variety of sources, including legislation under consideration in the California legislature, ‘AB1584’.

The resulting Code is in line with current SEC proposals in that it strictly and unambiguously prohibits “pay-to-play” practices. The penalty for non-adoption or breach of the Code is expulsion of that member from EVCA.

In addition, the Code sets out a global standard of behaviour for placement agents who advise on fundraising processes. It sets forth best practice among market participants, and emphasises the necessity of adherence to the highest standards of compliance and regulation and imposes requirements relating to transparency and accountability.

A TWO-TIER APPROACH TO RESTORING CONFIDENCE

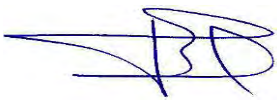
As our Code indicates, EVCA believes there should be a two-tiered approach to restoring confidence in the process of institutional fund placement. One element is to deal decisively and strongly with wrong doing: in this context, the corrupt practices of political middle-men in soliciting introductions in to single funds in return for political donations.

The other element is to define a clear and transparent framework of best practice conduct for professional intermediaries – in this context, the legitimate business practices of the institutional placement agent industry. Industry bodies such as EVCA can serve a role by providing a clear framework of best practice for legitimate practicioners to adhere to. Regulators such as the SEC should legislate against irresponsible activities.

Policymakers are unlikely to deter unethical market practices by outlawing legitimate market practice. Only by clearly distinguishing unacceptable behaviour from good practice can we ensure that the best interests of US pensioners and other stakeholders are not jeopardized.

Read the EVCA Placement Agent Code of Conduct, here.

Yours sincerely,



Javier Echarri
Secretary-General
EVCA