March 8, 2007

VIA EMAIL

Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, NE
Wshington, DC 20549-5041

Re: Comments re Proposed Rule re Accredited Investors
Release No. 33-8766; File No. S7-25-06

Dear Ms. Morris:

I am a securities attorney currently practicing at a bulge bracket investment bank. However, I submit this comment purely in my personal capacity.

I join the broad grass-roots opposition to the proposed changes to Regulation D. The proposal to raise limits under the definition of accredited investor, applicable only with respect to hedge funds, is, I believe, an abdication of regulatory responsibility.

It seems the main purpose of the rule is to foreclose access to an innovative and valuable alternative asset class to, according to the SEC's cited data, 8.47% - 1.3% = **7.17%** of U.S. households, leaving only **1.3%** eligible.

Other commentators (see, e.g., Mr. Richard Lashley, March 6, 2007) are in a better position to illustrate in detail an accepted concept – that hedge funds offer a unique alternative to the pools otherwise typically available to a household: debt and equity mutual funds. A hedge fund may offer extra return when compared to low yielding debt funds while at the same time offer low correlation to – and potentially less volatility than – long only equity mutual funds investing in today's arguably over-liquid and overvalued world equity markets. To what other vehicle will investors have access that would provide such an alternative exposure profile if the SEC amends Regulation D as proposed?

Many commentators have made essentially the following point: the supposition that, on average, households with over $2.5 million in investments are financially more sophisticated and better able to evaluate an investment in a hedge fund than households with over $1 million is highly dubious. Perhaps wealth serves as a workable, if still highly imperfect, proxy for financial sophistication when comparing households with $10,000 in investments versus $1 million in investments, but $1 million versus $2.5 million? Our household is an example of a household that I would consider financially sophisticated, but that would not meet the proposed $2.5 million threshold.

Another point is undisputable – investing in single stocks or in equity mutual funds (e.g. a niche technology mutual fund), not to mention options, can be very risky. Here, however, our regulatory regime, after requiring registration and disclosure, essentially adopts the principle of "caveat emptor," even with respect to the most unsophisticated and financially-limited buyers.

Particularly absurd is the possible outcome that the same investor that would still be free to invest – and possibly lose – his or her capital in an unregulated venture capital fund (putting definitions to the side), which presumably in turn is investing in unregistered securities, would now suddenly be prohibited from investing in a hedge fund investing primarily in registered securities.

Clearly, investor protection is a critical and legitimate regulatory concern in the complex and variegated world of hedge funds. The Goldstein decision is arguably unfortunate, but there must be other technical avenues of implementation to achieve appropriate regulation. It would be better to have a regime that vets and controls the manager[1] than, as is currently proposed, to throw up one's hands in defeat and seek to "solve the problem" by locking out the large majority of the eligible investing public.

Finally, this proposal may result in more attempts to place securities outside the Regulation D safe harbor, with entrepreneurial managers seeking to rely directly on the Section 4(2) exemption and the principles of Ralston Purina. The incongruities of the proposal, as summarized above, may only serve to underpin the arguments of those who choose to attempt to operate outside the proposed amended safe harbor.

Respectfully,

Rafael E. Castilla[2]

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1 Among the conceptual possibilities: registration for advisers (implemented differently than in the most recent attempt), minimum qualifications and experience standards for advisers, requirements with respect to disclosures and disclaimers (including fund strategy disclosures), and clearer liability for fraud per the first part of the proposal.

2 My personal email is marcuslicinius@yahoo.com.