



Via Email

January 20, 2011

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

Re: *File Number S7-36-10—Rules Implementing Amendments to the Investment Advisers Act of 1940*¹

Dear Ms. Murphy:

I am writing on behalf of the Council of Institutional Investors (Council), a nonprofit association of public, union and corporate pension funds with combined assets that exceed three trillion dollars. Member funds are major shareowners with a duty to protect the retirement assets of millions of American workers.² We appreciate the opportunity to provide our views on the above referenced proposed rules implementing certain provisions of Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and requiring disclosure of greater information by investment advisers and the private funds they manage.

As you may be aware, during the development of the Dodd-Frank Act, the Council strongly advocated for the inclusion of several provisions that would help strengthen the Securities and Exchange Commission's (Commission or SEC) oversight of investment advisers and fill key gaps in regulation. Consistent with the recommendations of the July 2009 report of the Investors' Working Group, the Council encouraged lawmakers to include a statutory requirement that *all* investment managers of funds available to U.S. investors be required to register with the SEC as investment advisers and be subject to oversight.³ Furthermore, the Council advocated for uniform registration requirements, regardless of the amount of assets under management, the type of product they offer or the sophistication of investors they serve. Mandatory uniform registration would afford a degree of transparency that would at least ensure disclosure of basic information about these systemically important market players and make them eligible for examination by the SEC.⁴

¹ Rules Implementing Amendments to the Investment Advisers Act of 1940, 75 Fed. Reg. 77,052 (Dec. 10, 2010), available at <http://edocket.access.gpo.gov/2010/pdf/2010-29956.pdf>.

² For more information about the Council of Institutional Investors (Council) and its members, please visit the Council's website at <http://www.cii.org>.

³ Investors' Working Group, U.S. Financial Regulatory Reform: The Investors' Perspective 16 (July 2009), [http://www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20\(July%202009\).pdf](http://www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20(July%202009).pdf). [Following its issuance, the IWG Report was reviewed and subsequently endorsed by the Council board and membership. For more information about the Investors' Working Group, please visit the Council's website at <http://www.cii.org/iwglInfo>.]

⁴ *Id.* at 15.

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With that being said, the Council generally supports the above mentioned proposed rules. Specifically, we support the Commission's proposed requirement that require hedge funds and other investment advisers provide additional information about the private funds they manage, as well as the proposed requirement that all registered advisers provide more information about their advisory business. We believe these are rational, practical and necessary measures that will strengthen the Commission's ability to oversee the entities it regulates. The new reporting items would help the Commission identify practices that may harm investors, improve its ability to assess risk and more efficiently conduct targeted examinations.⁵ Furthermore, the public availability of such basic information would aid investors in their due diligence efforts and help investors and other industry participants protect against fraud.⁶

The Council also wishes to voice its support for the Commission's proposed requirement that advisers to venture capital funds, private funds with less than \$150 million in assets under management in the U.S. and certain foreign advisers (collectively, exempt reporting advisers) file and periodically update reports with the Commission. While the Dodd-Frank Act creates exemptions from registration for these select groups, it also directs the SEC to require these advisers to maintain records and submit reports for examination by the Commission as necessary or appropriate in the public interest or for the protection of investors. We strongly believe that in order to fulfill its mandate to protect investors, the Commission must fully utilize this authority.

Under the proposed requirement, exempt reporting advisers would disclose information about their business, affiliates and owners, gatekeepers and disciplinary history. Although elementary in nature, the availability of this information would provide many benefits to both investors and the Commission. For example, an investor would be better able to make an informed decision regarding the integrity of a prospective exempt reporting adviser if he or she were able to review the disciplinary history of the adviser and its employees.⁷ In addition, the proposed requirement would better position the Commission to examine exempt reporting advisers by providing the types of basic information to facilitate efficient, effective and responsible examinations.⁸

In summary, we believe that the information required to be disclosed by registered investment advisers and exempt reporting advisers under the proposed rules would afford a degree of

⁵ *Supra* note 1 at 77,076.

⁶ Luis A. Aguilar, Commissioner, Securities and Exchange Commission, Implementing Dodd-Frank: The Changing Investment Adviser Regulatory Landscape (Nov. 19, 2010), *available at* <http://www.sec.gov/news/speech/2010/spch111910laa-items1-2.htm>.

⁷ *Supra* note 1 at 77,075.

⁸ See Troy A. Paredes, Commissioner, Securities and Exchange Commission, Statement at Open Meeting to Propose Rules Regarding Exemptions for Advisers to Venture Capital Funds, Private Fund Advisers with Less Than \$150 Million in Assets Under Management, and Foreign Private Advisers and Implementing Amendments to the Investment Advisers Act of 1940 (Nov. 19, 2010), *available at* <http://www.sec.gov/news/speech/2010/spch111910tap-items1-2.htm>. (supporting the value of disclosures without conceding that the Commission should examine exempt advisers)

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transparency and oversight necessary for these systemically important market players.⁹ It is of the utmost importance that such segments of the market place do not remain within the “shadow” financial system of unregulated non-bank financial entities.

The Council greatly appreciates the opportunity to share our views with you on the proposed rules to implement amendments to the Investment Advisers Act of 1940. If you have any questions or require any additional information, please feel free to contact me at (202) 261-7086 or laurel@cii.org, or General Counsel Jeff Mahoney at (202) 261-7081 or jeff@cii.org.

Sincerely,

A handwritten signature in black ink that reads "Laurel Leitner". The signature is written in a cursive, flowing style.

Laurel Leitner
Senior Analyst

⁹ *Supra* note 3 at 15.