

American Federation of Labor and Congress of Industrial Organizations



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Sent via electronic mail: rule-comments@sec.gov

January 24, 2011

Ms. Elizabeth M. Murphy, Secretary
U.S. Securities and Exchange Commission
100 F St., NE
Washington, DC 20549-1090

RE: File # S7-36-10, Rules Implementing Amendments to the Investment Advisers Act of 1940

Dear Ms. Murphy,

Thank you for the opportunity to comment on the proposed rule, "Rules Implementing Amendments to the Investment Advisers Act of 1940" ("Proposed Rule"), on behalf of the AFL-CIO. The AFL-CIO strongly supports the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act requiring advisers to hedge funds and private equity funds to register with the Securities and Exchange Commission. We support the Proposed Rule, particularly the provisions that would implement a uniform, comprehensive definition of "regulatory assets under management" and the requirement that exempt reporting advisers submit limited Form ADV filings to the SEC on a periodic basis.

The AFL-CIO is the country's largest labor federation and represents 12.2 million union members. Union-sponsored pension and employee benefit plans hold more than \$480 billion in assets. Union members also participate in the capital markets as individual investors and as participants in pension plans sponsored by corporate and public-sector employers. Investment advisers that are regulated under the Investment Advisers Act of 1940 are subject to disclosure obligations, business conduct standards, oversight and examination

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by the SEC. These regulations provide important protections for our members' retirement savings.

An adviser's calculation of its assets under management is central to the determination of whether that adviser is required to register with the SEC and be subject to its oversight. The AFL-CIO supports the Commission's proposal to implement a single, uniform definition of "regulatory assets under management" that accounts for asset appreciation to determine whether an adviser is required to register with the SEC. In addition, we support the proposal to require advisers to include in the calculation of regulatory assets under management assets which they are now permitted to exclude under the National Securities Markets Improvement Act ("NSMIA"). The uniform, comprehensive methodology proposed by the SEC will ensure its ability to oversee advisers to funds that may pose a systemic threat.

Section 407 and 408 of the Dodd-Frank Act exempt advisers to venture capital funds and advisers with less than \$150 million in assets under management from registration under the Advisers Act. These sections also state that the SEC must require fund advisers that are exempt under these provisions to "maintain such records and provide to the Commission such annual or other reports as the Commission determines necessary or appropriate in the public interest or for the protection of investors." These record-keeping and reporting requirements are essential to ensure that the SEC has the ability to determine whether an adviser is eligible for the exemptions and to prevent evasion of the registration requirements by non-exempt advisers. The AFL-CIO strongly supports the proposal to require exempt reporting advisers to file reports containing a subset of the information required by Form ADV on a periodic basis.

The Proposed Rule would create, for the first time, a database of public information on private investment funds. We strongly support the Commission's proposal to expand the scope of information private fund advisers report in Item 7.B of Form ADV and to make the information available to the public. This information will assist investors as they perform due diligence before making investment decisions and will finally make uniform, comprehensive information available to analysts researching hedge funds and private equity funds. We urge the Commission to add to Item 7.B a requirement that private fund advisers disclose 1-, 5- and 10-year performance of each of the funds they manage. Providing this information to investors and the public in a uniform, understandable format will further assist investors performing due diligence.

Since the failure of Long Term Capital Management more than a decade ago the SEC has sought the authority to oversee systemically risky private funds

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and require private fund advisers to register under the Investment Advisers Act. Last year, Congress provided the SEC with these authorities in the Dodd-Frank Act. While the AFL-CIO was disappointed that the legislation exempts venture capital funds and mid-size fund managers, we strongly support the Dodd-Frank Act and the Proposed Rule. We urge the Commission to resist pressure to weaken the Proposed Rule by allowing advisers to omit certain types of assets from their calculations of assets under management or by eliminating any of the proposed disclosure requirements for exempt reporting advisers or private fund advisers.

On behalf of the AFL-CIO, thank you for the opportunity to comment on the Proposed Rule. If you have any questions, please contact Heather Slavkin at (202) 637-5318 or hslavkin@aficio.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Damon A. Silvers". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Damon A. Silvers
Director of Policy & Special Counsel

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opeiu #2, afl-cio