ICW Intelligent Capitalworks
INVESTMENT ADVISORS

January 24, 2011

Securities and Exchange Commission
100F Street, NE
Washington, DC 20549-1090

RE: File No.: S7-36-10

RE: Comment on Rules Implementing Amendments to the Investment Advisers Act of 1940 (Release No. IA-3110)

Summary: Eliminating the previously available **range** of assets under management in which an advisory firm may elect to register with the SEC or the individual states for regulatory oversight (previously $25-30 million) will create a costly and overwhelming regulatory burden for mid-size advisory firms that consistently have assets that are plus or minus $100 million in assets under management.

Please consider the merit of maintaining the "range of assets" framework that allows investment advisors to elect registration with the SEC or the individual states. The previous 16.7% range below $30 million and 20% range above $25 million would be appropriate to continue applying to the new $100 million assets under management threshold for determining regulatory oversight.

ICW Investment Advisors LLC appreciates the opportunity to respond to the Securities and Exchange Commission's request for comments.

There are a number of mid-size firms, including ICW Investment Advisors LLC, that consistently have assets under management close to $100 million. Under the proposed rules, these firms would more than likely face frequent back-and-forth registration between the SEC and the states due to: (1) short-term market volatility, (2) transfers of client accounts to and from advisory oversight, (3) short-term mismatches between households withdrawing (spending) funds and households adding (saving) funds to their accounts, (4) refinements to the Commission's instructions for calculations of assets under management[1] and (5) client arrivals and departures from an advisory firm's client base.

The principals and CCOs of these mid-size firms like ours have invested great amounts of time and expense to develop the understanding, capacities and infrastructure necessary to successfully meet their SEC or state regulatory obligations. Because they are mid-size and not so large as to be able to dedicate personnel to the very substantial endeavors of developing new understanding, capacities and infrastructure for different and possibly alternating regulatory regimes, an exact $100 million of assets under management calculation at specific moments in time for determining prospective regulatory oversight creates a costly and overwhelming regulatory burden for mid-size advisory firms that consistently have assets that are plus or minus $100 million in assets under management. This would create a disproportionate regulatory burden and cost structure for advisory firms with this mid-size profile and place them at a significant operating and financial disadvantage to advisory firms clearly exposed to only one regulatory regime that is not likely to change.

By way of example, my firm has been registered with the SEC since inception in 2005 and has been examined by the Office of Compliance Inspections and Examinations. For the past three years, our assets under management have been greater than $100 million by a few million dollars and have been reduced to under $100 million by just a few days of downside market volatility at various times throughout the year. We

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have made substantial investments of time and money to develop the body of knowledge, capacities and infrastructure to respond to the SEC's implementation of the Investment Advisers Act of 1940. Without a "range of assets framework" that creates a buffer to offset short-term market volatility or the other variables described above when calculating assets under management for prospective regulatory oversight, my mid-size firm and others like it, may well be faced with the overwhelming challenge of being compelled to rebuild our regulatory body of knowledge, capacities and infrastructure within short periods of time, with the very real possibility our firms will suffer the extraordinary costs of repeated regulatory regime change from one year to the next.

Please consider the merit of maintaining the "range of assets" framework that allows investment advisors to elect registration with the SEC or the individual states. The previous 16.7% range below $30 million and 20% range above $25 million would be appropriate to continue applying to the new $100 million assets under management threshold for determining regulatory oversight.

[1] Form ADV Part 1A Instructions, Item 5.F: Calculating Your Assets Under Management prescribes the method of determining whether to include investment real estate as an asset to be included in a client's portfolio depending upon the relationship in value between the securities and the real estate in the client's portfolio, but it is not clear from the examples given in the instructions whether the meaning of the client's portfolio is by account or by household, creating an unintentional, but potentially meaningful and important distinction in the assets under management calculation by virtue of how the client chooses to hold title to the different securities and non-securities in the client's portfolio.

Respectfully Submitted,

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