January 24, 2011

VIA ELECTRONIC FILING

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

Re: File Number S7-37-10

Dear Ms. Murphy:

We are writing in response to the Commission's request for comments on the proposed new Rule 203(l)-1(a) of the Advisers Act of 1940 (the "Proposed Rule").

The Proposed Rule would define a "venture capital fund" as any fund that meets all of the following criteria:

- The fund must be a private fund.
- The fund represents itself as a venture capital fund to investors.
- The fund owns equity securities of private companies and cash, cash equivalents and certain U.S. treasuries.
- None of the portfolio companies of the fund: (i) issues debt obligations (directly or indirectly) in connection with the fund's investment in such company; (ii) redeems, exchanges or repurchases any securities of the company or distributes to existing security holders cash or other company assets in connection with the fund's investment in such company; or (iii) is itself a private fund or other pooled investment vehicle.
- At least eighty percent (80%) of the equity securities of each portfolio company of the fund were acquired by the fund directly from the portfolio company.
- The fund and/or its managers: (i) offer to provide significant guidance regarding the management, operations or business objectives and policies of each portfolio company

(and, if accepted actually provides such guidance) or (ii) control each portfolio company.

- The fund does not borrow, issue debt obligations, provide guarantees or otherwise incur leverage in excess of fifteen percent (15%) of the fund's committed capital, and any such borrowing, indebtedness, guarantee or leverage is for a non-renewable term of no longer than one hundred twenty (120) calendar days.

- The fund does not offer its investors redemption, withdrawal or other similar liquidity rights except in extraordinary circumstances.

- The fund is neither registered under the 40 Act nor has elected to be treated as a "business development company."

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We appreciate the opportunity to comment on the Proposed Rule. We recognize the Commission's important role in regulating the activities of private funds and the Commission's desire to protect investors and safeguard the financial marketplace. However, we believe that at least one aspect of the Proposed Rule severely and unnecessarily limits certain activities in which dedicated venture capital firms seek to engage as an integral part of their business model of helping to launch and support small, private, entrepreneurial companies, and in which small, private firms needing capital want venture capital firms to be able to engage. This element of the Proposed Rule in particular would restrict necessary and desirable business activity without providing any countervailing regulatory information, investor protection or marketplace protection benefits.

Small, private companies, like all companies, may seek to sell debt or equity to finance their activities and business development. Every company seeking to raise capital must analyze whether it would be more advantageous, for a variety of reasons, to raise capital by selling debt or to raise capital by selling equity.

The founders of small, private companies, often having sold equity to secure operating capital and to launch the business initially, are reluctant to keep diluting their equity ownership percentage by selling more equity. Instead, they might choose to borrow money to fund the business going forward.

In any economic environment, but especially in this difficult credit environment, traditional lenders such as banks might not wish to lend to small, private companies on reasonable terms. As a result, such companies may wish to issue debt privately.

It is logical and expected that a venture capital firm, which may have already made an equity investment in a small, private company, and which already is intimately familiar with the company's management and with the business model of the company, is uniquely and ideally suited to loaning money to the company. Because such venture capital fund is already familiar with, and comfortable

with company and its management, the venture capital firm is in a position to offer the company better credit terms than would a traditional lender which has no prior history with the company.

The prohibition in the Proposed Rule that a portfolio company many not issue a debt obligation to a fund hamstrings the portfolio company by preventing it from borrowing money from its most likely and sympathetic lender: the very venture capital firm which already made an equity investment in the company.

We respectfully submit that the Proposed Rule should be modified to permit portfolio companies to sell non-convertible, debt securities to venture capital firms which have already made equity investments in such companies, and that venture capital firms should be allowed to purchase non-convertible, debt securities from their portfolio companies, without losing the exemption from registration afforded by the Proposed Rule. We respectfully submit that amending the Proposed Rule to allow such sale and purchase of such debt securities would materially benefit small, private firms as they seek to grow, without in any way jeopardizing the Commission's ability to regulate venture capital firms, or to protect investors or the financial marketplace.

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We appreciate the opportunity to respond to the Commission's request for comments and we hope that these comments and observations prove useful to the Commission. If you have any questions with respect to the matters raised in this letter, please contact us.

Sincerely

CounselWorks LLC