CD/SJ - n°2893/Div.

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Paris, 14 June 2011

Re: Additional Comments on:

File Number S7-37-10 (Release No. IA-3111: *Exemptions for Advisers to Venture Capital Funds, Private Fund Advisers with Less Than $150 Million in Assets Under Management, and Foreign Private Advisers*); and

File No. S7-36-10 (Release No. IA-3110: *Rules Implementing Amendments to the Investment Advisers Act of 1940*) (together with Release No. IA-3111, the "Advisers Registration Releases")

AFG FURTHER COMMENTS ON 'EXEMPTIONS FOR ADVISERS' AND 'RULES IMPLEMENTING AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940'

The publication of the new rules and rule amendments to implement the Dodd Frank Wall Street Reform and Consumer Protection Act (the Act) is expected on 22 June; however, the Association Française de la Gestion financière (AFG)[1] would be very grateful if the Commission, in its implementation of both the Act and these rules, would take into consideration the below comments.

[1] The Association Française de la Gestion financière (AFG) represents the France-based investment management industry, both for collective and discretionary individual portfolio managements. Our members include 409 management companies, which are entrepreneurial or belong to French or foreign banking, insurance or asset management groups.

Together, AFG members currently manage more than USD 3,800 billion (through funds and/or discretionary mandates). The French asset management industry is number one in Europe for investment funds (with assets under management in excess of USD 2,300 billion, i.e. 21% of all EU investment funds assets) and number two in the industry worldwide. Collective investment funds include – beside UCITS – employee savings schemes and products such as regulated hedge funds and funds of hedge funds, as well as a significant part of private equity funds and real estate funds.

AFG is a member of the European Fund and Asset Management Association (EFAMA), of the European Federation for Retirement Provision (EFRP) and of the International Investment Funds Association (IIFA).

AFG previously provided written comments to the rules proposed by the Commission in the Advisers Registration Releases, which implement provisions of Title IV of the Act, on January 24 2011.[2] In addition, AFG joined EFAMA's written response to the Advisers Registration Release, also filed on January 24, 2011, and participated to a meeting with Commission staff members to discuss these comments.[3] AFG continues to fully support all of these comments.

In particular, we would like to express the following points and suggest a few proposals.

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- We believe that investment funds that already are strictly regulated and supervised by European Union regulators should be excluded from the scope of Title IV of the Dodd Frank Act and should not be considered as "private funds" in the Commission's final rules. Indeed, the Commission should be able to defer and rely on the legislative frameworks already in place in the European Union.

  The Commission should feel comfortable that the recently revised UCITS directive and the newly adopted AIFM directive strictly regulate UCITS (Undertakings for Collective Investment in Transferable Securities) and AIFM (Alternative Investment Fund Managers). In addition, the European supervisor ESMA benefits from enhanced powers to enforce such regulations.

  Moreover, in particular in France, such EU framework is reinforced by stringent national regulation and a rigorous supervision by AMF (Autorité des marchés financiers) which is internationally recognised for its vigilant monitoring of compliance by French practitioners of their obligations. Additionally, like many other EU regulators, the AMF concluded an agreement of exchange of information with the SEC that allows smooth flows of information between them in situations where the SEC or its staff believes that there is a need to investigate French parties.

  Consequently, keeping European Regulated Funds, in particular French Regulated Funds, in the definition of private funds would lead to a vast and useless duplication of efforts and costs in Europe and in the US.

- Bearing in mind the Commission's objective, we propose that legal documents such as prospectuses and/or subscription forms of relevant Regulated Funds state explicitly that the Regulated Funds are not intended to be marketed to US persons and include a statement such as the following:

  The shares or units of the fund mentioned herein ("the Fund") have not been registered under the US Securities Act of 1933 and may not be offered or sold directly or indirectly in the United States of America (including its territories and possessions), to US persons, as defined in Regulation S ("US persons").

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[2] Prior AFG comments available at http://www.sec.gov/comments/s7-37-10/s73710-44.pdf.
[3] EFAMA comments available at http://www.sec.gov/comments/s7-37-10/s73710-38.pdf and memorandum of meeting available at http://www.sec.gov/comments/s7-36-10/s73610-83.pdf.

As you are aware based on our prior comments, the concern of our 400 management company members is that very often they do not know – and cannot know - the investors investing in their funds (because third party distributors and clearing banks may hold the units/shares as nominee on behalf of investors). We think that French management companies cannot - therefore should not - be held responsible if, unbeknownst to them, US persons decide to invest in their funds.

- We would be very grateful to the Commission if it would clarify its views regarding arrangements commonly referred to as "participating affiliates arrangements", which are based on existing Commission staff no-action guidance, and confirm that participating affiliate arrangements will continue to be recognized by the Commission and its staff after the final rules are adopted. It is very important that global investment advisers, including some of our members' groups, be able to rely on such arrangements which avoid redundant registrations of investment advisers and avoid unnecessary additional infrastructure and regulatory costs. Indeed, there has been no history of abuse, this framework has been relied upon for many years and is necessary to the ability of many global advisers to effectively and efficiently manage accounts on behalf of US clients. It is our opinion that a management company registered with the Commission should be allowed to use the resources within its group with no obligation for the whole group to register.

- We respectfully suggest the Commission to consider the practical difficulties (such as, for example, conflicts of laws) that might arise from the application of its regulations adopted under the Investment Advisers Act of 1940 as amended by the Dodd Frank Act to foreign entities. Indeed, certain legal principles in the US and in Europe might not be fully compatible. For instance, the level of disclosure required of French and European management companies that would be required to register as investment advisers with the Commission may not be compatible with some privacy and employment laws in Europe.

  Some other practical difficulties might also arise out of the set of procedures to be implemented by foreign management companies registered as investment advisers with the SEC. We understand that these procedures should only be implemented relating to investment management carried out for US clients. We would greatly appreciate if the Commission could confirm our understanding.

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We would like to thank the Commission for taking these further comments into consideration. Please feel free to contact us should you have any questions. You may contact me directly at 33 1 44 94 94 14 (e-mail: p.bollon@afg.asso.fr), our Head of International Affairs Division, Stéphane Janin, at 33 1 44 94 94 04 (e-mail: s.janin@afg.asso.fr), or his Deputy, Carine Delfrayssi, at 33 1 44 94 96 58 (e-mail: c.delfrayssi@afg.asso.fr).

Yours sincerely,

(signed)

Pierre Bollon