To: The SEC by email - Rule-comments@sec.gov Date: January 21, 2011

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

The Venture Capital community together with their venture-backed entrepreneurial portfolio companies represent a crowning achievement of our American system. I would like to provide comments on the SEC's proposed Rule that defines a Venture Capital Fund ["VCF"] for use in conjunction with implementing the Dodd-Frank Act.

I am the Stanford Investors Professor in Stanford's Graduate School of Business, in Silicon Valley, CA. 2011 marks my 44th year of teaching Investment Management and Entrepreneurial Finance, an MBA course on fundamental investing in public and private equity markets. I also have experience on the regulatory side of the securities industry, having been the vice chairman of the Board of Governors of the NASD.

Venture Capital Funds have been a major, long-term positive force for the growth of the U.S. economy and the creation of jobs. VCFs are not a systemic risk to our country. VCFs generally do not rely heavily on borrowed money to 'leverage' their investments. VCFs make long-term investments in young, privately-held innovative companies using the long-term capital commitments from investors. The majority of these investors are sophisticated institutions that can accept the illiquidity and risk inherent with these investments.

I believe that it is important that the proposed Rule be modified to capture more fully how VCFs currently operate. Without these suggested changes, I am concerned that a significant percentage of the venture capital funds would be compelled to become Registrants, which I understand was not Congress's intent. I believe that the suggested modifications that I describe will not impose material risk to our economy or to investors. I also believe that the alternative is unattractive: If VCFs change how they normally conduct business to be in 100% compliance with the proposed Rule, they may not be as productive as they have been historically, which would be a detriment to our country's economy.

The venture capital industry is dynamic and diversified. I believe that my suggestions will better provide the flexibility needed to accommodate the range of venture capital practices without undue additional risk.

My five specific suggestions are:

1. Allow a VCF to buy stock from their portfolio companies even after the companies become public, *provided that* the VCF still owns a majority of the investment that it made while the company was still privately held. If this is not a "qualifying activity", many portfolio companies will not be able to grow or survive because additional rounds of public financing often require the participation of existing major shareholders, such as VCFs. The capital markets like this show of support and alignment of interests. This is a modest change in the proposed Rule.

2. Allow a VCF to be compliant with the Rule if a substantial majority [e.g. *85%*] -- instead of *100%* -- of its committed capital is used for "qualifying activities". This would allow for some needed, but limited, flexibility in VCF operations with no detriment to the financial markets. This is consistent with the basic intention of the Dodd-Frank Act.

3. Allow a VCF to support the growth and attractiveness of its portfolio companies by requiring that at least a substantial majority [e.g. *80%]* of the VCF's *committed capital* be used to purchase stock directly from its portfolio companies. This would allow a minority (e.g. up to 20%) of the VCF's total committed capital to be paid to selling shareholders -- usually the founders and employees of a company that is not yet public. This benefits the portfolio company's recruiting efforts for high-quality employees by providing limited liquidity. I believe that this test would be made on the basis of the fund's total committed capital rather than on the proposed *company-by-company* basis, which would be unnecessarily restrictive without any significant offsetting benefits.

4. I find the following to be an acceptable restriction on the borrowing activity by a VCF's portfolio company: The fund may not invest in portfolio companies that borrow, where the proceeds of such borrowing are required by the fund to be used to buy out shareholder stock or return capital to the fund. A portfolio company needs to be able to borrow in the normal course of business, while not threatening the VCF's status under the proposed Rule.

5. Continue to classify non-US investments as a "qualifying activity" for a VCF. In our global economy, global investment flexibility is essential while investors do not need any unique protection solely based on the geographic location of a VCF's investments. This is in reply to your question as to whether such non-US investments should be "non-qualifying."

I respectively submit that the above modifications to the proposed Rule would substantially improve the quality of the Rule.

Sincerely,

John G. McDonald
The Stanford Investors Professor
Stanford University

C.V. 2011

John G. McDonald
Stanford Investors Professor
Stanford Graduate School of Business

In 1960, Professor McDonald received his B.S. in engineering with honors from Stanford. He received his MBA at Stanford in 1962, and served as Lieutenant, platoon leader, in the U. S. Army 25th Infantry Division, 1962-1964. After working as an analyst for a year, he returned to Stanford in 1965 and completed his PhD in 1967. He started his teaching career as Fulbright scholar and assistant professor of finance at the French business school, Ecole des Hautes Etudes Commerciales (Ecole HEC) in Paris, 1967-68.

In 1968 he joined the faculty of the Stanford Business School as assistant professor of finance. In 1974-75 he was promoted to full professor with tenure. In 1978 Professor McDonald was awarded his first endowed chair by Dean Arjay Miller, and in 1987 he was awarded his second endowed chair by Dean Bob Jaedicke-the IBJ Professorship, a chair which he held until 2004 when he was awarded this third and final chair, the Stanford Investors Professorship, by Dean Bob Joss.

Professor McDonald has been a visiting professor at the University of Paris, at Columbia University in New York City, and at Harvard Business School. From 1969-1983, he was director of the Investment Management Program held each summer at Stanford for 60 investment professionals, corporate pension plans sponsors, and other institutional investors. He has also taught for many years in the Stanford Executive Program, the Stanford Financial Management Program, the Stanford-INSEAD Executive Program near Paris, the Stanford-Singapore Executive Program in Singapore, and the Credit and Financial Management Program held at London Business School. He served for six years on the Harvard Overseers' Visiting Committee of the Harvard Business School, two terms of three years each, 1994-2000.