SadisGoldberg LLP

December 6, 2010

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

Re: SEC Release No. IA-3111, File No. S7-37-10 ("Release")

Dear Ms. Murphy:

On November 19, 2010, the Securities and Exchange Commission (the "Commission") proposed Rules that would implement new exemptions from the registration requirements of the Investment Advisers Act of 1940, as amended ("Advisers Act") for advisers to venture capital funds, private fund advisers with less than $150 million in assets under management, and foreign private advisers.

We support the Commission's efforts to provide additional oversight under the Advisers Act by requiring registration for a broader cross-section of advisers. We believe, however, that it is appropriate for the Commission to recognize certain exemptions that the Release either does not currently address, or that the Release does not make clear.

First, in response to the Release, we respectfully request that the Commission clarify that a "foreign private adviser" will be permitted to rely on the exemptions from registration provided under new Section 203(m) of the Advisers Act to the same extent as a "non-U.S. adviser" which has its principal office and place of business outside of the United States ("U.S."), and as a "private fund adviser" which has its only place of business in the U.S.

Second, we respectfully request that the Commission determine that the venture capital exemption provided under new Section 203(l) of the Advisers Act be revised so that it applies to all advisers whether they are located in the U.S. or abroad.[1]

Finally, we respectfully request that the Commission consider an exemption from registration under the Advisers Act for a "foreign private adviser" that is registered with a recognized foreign regulatory authority.

1. **Application of 203(m) to "foreign private advisers"**

New Section 203(m) of the Advisers Act directs the Commission to provide an exemption from registration to any investment adviser that solely advises private funds if the adviser has assets under management in the U.S. of less than $150 million.

[1] *See* Section 407 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act").

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Proposed Rule 203(m)-1 would, like new Section 203(m) of the Advisers Act, limit an adviser relying on the exemption to advising "private funds" as that term is defined in the Advisers Act. An adviser that acquires a client other than a "private fund" would have to register under the Advisers Act unless another exemption is available. An adviser could advise an unlimited number of private funds, provided the aggregate value of the adviser's private fund assets is less than $150 million. A "non-U.S. adviser" would need only count private fund assets it manages from a place of business in the U.S. toward the $150 million asset limit under the exemption.

In addition to its application to "non-U.S. advisers," we believe that new Section 203(m) should also extend to "foreign private advisers," since it appears that the Commission currently distinguishes between the two. The Commission currently classifies a "non-U.S. adviser" as an adviser that has its principal place of business outside of the U.S., while a "foreign private adviser" has no place of business in the U.S.[2] It is counterintuitive that the Commission should seek to impose a lower threshold registration requirement on an adviser with no place of business in the U.S. than an adviser with a place of business in the U.S. In particular, the Release states that a "non-U.S. adviser" would be permitted to have an unlimited number of private fund clients or investors located in the U.S. so long as the assets under management remained under $150 million. By contrast, the Commission would require a "foreign private adviser" to register once it has either 15 clients or investors in private funds advised by the adviser located in the U.S., or has $25 million under management attributable to U.S. clients or investors. We respectfully submit that the exemption from registration under new Section 203(m) should apply equally to "non-U.S. advisers" and "foreign private advisers."

2. Application of Section 203(l) to "non-U.S. advisers" and "foreign private advisers"

Likewise, new Section 203(l) of the Advisers Act should apply equally to "non-U.S. advisers" and "foreign private advisers" as it does to U.S. advisers. Currently, the Release is silent as to its application to advisers other than U.S. advisers. Under new Section 203(l), a U.S. adviser solely to venture capital funds is exempt from registration under the Advisers Act.[3] Neither the statutory text of new Section 203(l) nor the legislative reports gives an indication of whether Congress intended the exemption to be available to advisers that operate principally outside of the U.S., which also invest in U.S. companies or solicit U.S. investors. The Commission should extend the definition of "foreign private adviser" under new Section 202(a)(30) of the Advisers Act to include a provision that defines that a "foreign private adviser" includes a person that provides advice only to venture capital funds.[4] To clarify that the venture capital exemption applies equally to "non-U.S. advisers" and "foreign private advisers," the text of new

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[2] *See* pages 59 and 72 of the Release.

[3] An adviser would be eligible to rely on the exemption under Section 203(l) only if it solely advised venture capital funds that met all of the elements of the proposed definition or if it was grandfathered. *See* page 13 of the Release.

[4] *See* Section 402 of the Act.

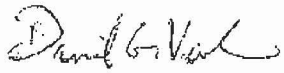
Section 203(l) of the Advisers Act should specify that the exemption applies to all advisers, regardless of their principal place of business.

3. **Recognition of exemption for "foreign private advisers" registered with foreign regulatory authorities**

Neither the Act nor any subsequent proposed Rules or releases by the Commission address the significance of a "foreign private adviser" and/or "non-U.S. adviser" that is registered with a foreign regulatory authority. We submit that the Commission should recognize an exemption under the Advisers Act for a properly registered adviser; provided that, such adviser is registered with a recognized foreign regulator (a "Foreign Registered Adviser"). The Commission has entered into several bilateral treaties with certain foreign regulatory authorities, which allow the Commission to obtain information from Foreign Registered Advisers. As such, it would appear that additional regulations would be duplicative and unnecessarily burdensome for such Foreign Registered Advisers. Moreover, a Foreign Registered Adviser that enters into a written sub-adviser agreement with an adviser that is properly registered with the Commission ("Sub-Adviser"), should also be exempt since the books and records associated with the Sub-Adviser will be available through the Commission's examination of the Sub-Adviser. As a result, additional regulation over the Foreign Registered Adviser would be unnecessary.

We appreciate the Commission's consideration of the matters set forth above.

Very truly yours,



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