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MISSIONPOINT
CAPITAL PARTNERS

January 24, 2011

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

Re: 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 "Release")[1]

Dear Ms. Murphy:

We appreciate the opportunity to comment on proposed Rule 203(l)-1 (the "***Proposed Rule***") under the Investment Advisers Act of 1940 (the "***Advisers Act***"), that defines "venture capital fund" (the "***VC Fund Definition***") for purposes of the Advisers Act registration exemption for advisers solely to such funds. We seek confirmation regarding the ability of certain existing funds to satisfy the VC Fund Definition even if those funds were not historically labeled as "venture capital funds."

Background

MissionPoint Capital Partners LLC ("***MissionPoint***") was organized in 2006 to manage private funds investing in emerging companies focused on the clean energy, energy efficiency and environmental finance sectors. MissionPoint currently operates a single fund that could be described as a "cleantech fund." In fact, one of its founders was honored in 2007 as the "cleantech leader of the year" by the Cleantech Venture Network.[2] MissionPoint expects that its current fund will comply with the final terms of the definition of "venture capital fund" set forth

[1] *See* 75 Fed. Reg. at 77190 (December 10, 2010).

[2] *See* http://cleantech.com/about/pressreleases/022107.cfm .

in clause (a) of the Proposed Rule[3], although with respect to subclause (a)(1), it has not historically represented the fund as a "venture capital fund" to its investors.

In this context, MissionPoint is seeking the Commission's confirmation that MissionPoint's current fund will meet the VC Fund Definition, so long as: (i) before the effective date of the Proposed Rule, MissionPoint represents to the fund's existing investors that the fund is and will be managed in compliance with the elements of the Proposed Rule's "venture capital fund" definition; and (ii) the fund is, in fact, operated in compliance with such elements.

Until the Dodd-Frank Act, Use of the Label "Venture Capital" Did Not Matter

In pursuit of its policy objectives, Congress gave the Commission the difficult challenge of defining a class of investment funds that had previously resisted definition. Until the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "***Dodd-Frank Act***"), advisers to funds making equity investments in private companies were free to call themselves "venture capital funds," or "growth equity funds," or "early-stage funds," or "private equity funds," or some combination of the foregoing, or other labels, or no label at all, because there were no legal consequences to using one label or the other, so long as it was not misleading. Only in 2008 did the Commission amend Form D to include a box to check to indicate whether a fund considered itself a "venture capital fund" or a "private equity fund"[4], and a reporting issuer is permitted to check more than one box.

Outside the U.S., the distinction is even less clear. According to one European venture capital industry organization, "The terms Venture Capital and Private Equity should therefore be regarded as interchangeable phrases."[5] A U.S. adviser to a fund with an investment strategy that would be called "venture capital" in the U.S. might choose to use the label "private equity" to appeal to a larger, more global investor base. Alternatively, a fund adviser might invent a new label for its fund (e.g., "technology seed fund"), to distinguish it from all the other "venture capital funds" in the market. For these reasons, a fund like MissionPoint's that is, in substance, a venture capital fund under the Proposed Rule might not have been previously labeled as such.

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[3] We urge the Staff to consider and adopt the recommendations of the National Venture Capital Association in its comments on the Proposed Rule, particularly a 15% allowance for non-conforming investments. *See* letter dated January 13, 2011, p. 2 *et seq*., available at http://www.sec.gov/comments/s7-37-10/s73710-14.pdf .

[4] *See* 73 Fed. Reg. at 10641 (February 27, 2008).

[5] Irish Venture Capital Association, "A Guide to Venture Capital," at 4 (3rd ed. 2008), available at http://www.basis.ie/servlet/blobservlet/Guide_to_VC.pdf?language=EN .

Requested Clarification is Consistent with the Proposed Rule Release

The Release states in relevant part that an adviser to a private fund may satisfy the first element of the VC Fund Definition (i.e., representing itself to investors as a "venture capital fund") by describing it as "a fund that is managed in compliance with the elements of" the Proposed Rule.[6] Thus, the Release gives assurance to investment advisers that they will have the flexibility to label future funds using names that are distinctive, yet accurately describe their intended investment program, without causing those vehicles to fall outside the definition of "venture capital fund," so long as the adviser also describes the fund as a vehicle that will be managed in compliance with the VC Definition's proposed elements.

MissionPoint seeks assurance that this principle applies to existing funds that: (i) notify their existing investors prior to July 21, 2011 that such funds will be managed in compliance with the elements of the VC Fund Definition; and (ii) are actually operated in compliance with such definition. This clarification of the Proposed Rule would allow existing funds meeting the Commission's proposed substantive criteria to be treated in the same manner as new funds that meet those criteria, instead of creating an artificial distinction between existing and future funds based solely on the labels used to describe them. In other words, this clarification would allow existing funds that can properly be called "venture capital funds" under the Commission's own substantive criteria to fall within the VC Fund Definition, even though those funds were originally marketed using labels such as "cleantech fund" or "emerging growth fund."

Conclusion

MissionPoint believes that the confirmation requested in this letter will help ensure that advisers solely to private funds that comply with the substance and intent of the Dodd-Frank Act and the VC Fund Definition will be exempt from registration under the Advisers Act to the extent intended by Congress, without placing unintended regulatory burdens on such advisers solely as a result of the historical labels applied to those funds.

Thank you for considering these comments.

Sincerely yours,

Leonard Nero, CFO

[6] Release at 77204