Peter C. Brockway
Managing Partner

January 24, 2011

Via email to: Rule-comments@sec.gov

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

RE: Proposed Rule: Exemptions for Certain Advisors: Title IV Provisions of the Dodd Frank Act

Subject File: #S7-37-10

Dear Ms. Murphy:

I am Managing Partner of Brockway Moran & Partners, Inc., which is a private equity fund currently investing a $700 million fund. I have been a private equity professional for 25 years. Our focus is on purchasing promising companies and growing the companies in numerous ways including by expanding geographical reach, adding new products and augmenting distribution channels, each which typically foster job creation. My partners and I have had considerable success in meeting those objectives over the past 25 years.

Let me first state that I am distressed, along with many others, over the numerous issues with certain financial firms over the past several years. I am also supportive of having the private equity industry operate to the highest ethical and fiduciary standards, as I believe our firm does.

That being said, although well intentioned, I believe that the provisions of Dodd-Frank applying to private equity do not accomplish these goals. In fact, I believe the risk factors that the bill seeks to address are not applicable to private equity.

I thought it would be productive to offer our analysis of the bigger picture concerns that we properly have as a nation (post the 2008 near meltdown) and analyze these risk factors in relation to the private equity industry.

RISK	APPLICATION TO PRIVATE EQUITY
Contagion between financial institutions	Private equity portfolio companies are almost universally structured with independent capital structures which significant equity is invested at the outset of a deal. Further, private equity funds are also almost universally discrete entities.
Counter party risk	Private equity funds have virtually no contingent obligations to others (such as unfunded revolvers, backstopping derivatives, or credit insurance).

RISK	APPLICATION TO PRIVATE EQUITY
Packaging substandard investments and selling them to others	Private equity "eats its own cooking" and typically holds investments for 4-6 years.
Deposits are taken which are federally insured and then used to invest in risky assets.	The vast majority of private equity firms (only excluding banks which can be separately regulated) do not have federally insured deposits as a funding source.
Unsophisticated investors must be protected	Private equity investors are typically very sophisticated, very substantial investors who have a variety of their own mechanisms supervised by professional investment staff to provide protection and oversight.
Bailout concerns	In an era of bailouts of banks, investment banks, auto companies and now the talk of certain governmental jurisdictions, there has never been, to my knowledge, a discussion of bailing out a private equity fund.

So, it is – I believe – well established that there is not a need for regulating private equity per se, from a risk perspective.

But, in addition to that, the information, as I understand it, to be gathered under Dodd-Frank will have virtually no use. A couple of quick examples are as follows:

- Our securities are typically held 4-6 years, and as private securities are not tradable. Having to deposit stock certificates with third party financial institutions will serve no practical purpose.

- Private equity invests in only a small percentage of companies that are public. (In our case, we have invested in one public company in 13 years, and its market capitalization was under $25 million.) The extensive reporting of stock positions held by private equity professionals is unnecessary. The vast majority of private equity funds do not have trading operations (and if they do, then separate regulations could apply).

We estimate that the meeting of the provisions of Dodd-Frank will cost our firm $350,000 - $500,000 a year, which will dilute our financial resources away from growing companies to needless regulation. Our time on focusing on growing our companies and investing in new companies will be diluted as well. Ultimately I believe this regulation will be a negative factor in job creation as one important consequence.

We would respectfully suggest that the SEC delay implementation while the SEC studies the issues involved. I also visited with House Finance Committee Chair Bachus in his office in Washington D.C. several weeks ago on this issue. I believe that the Congress should apply the same standard to private equity firms it did to the venture capital industry. I personally believe that after a full review of the facts that a consensus can be reached on this matter.

I appreciate your time reading this and your service to our nation.

Sincerely,

Peter. C. Brockway
Managing Partner

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