AltaPartners

January 24, 2011

VIA E-Mail – rule-comments@sec.gov

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 Proposed Rules)*

Dear Ms. Murphy:

We are respectfully writing to provide our comments on the proposed rules setting out to define a "venture capital fund." On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) which, among other things, (i) amended the Investment Advisers Act of 1940 (Advisers Act) to eliminate the current exemption from registration for investment advisers with fewer than 15 clients and (ii) provided for a new exemption from registration for investment advisers solely to venture capital funds (VCF Exemption). The Dodd-Frank Act further required or authorized the Securities and Exchange Commission (the Commission) to adopt or revise certain rules applicable to investment advisers, including a rule defining "venture capital fund" (VCF). The Proposed Rules set forth this new definition. We are pleased to have the opportunity to comment on the Proposed Rules, with a specific focus on the impact to our industry.

It is our understanding that the National Venture Capital Association (NVCA) has submitted a comment letter providing detailed comments and clarifications regarding the Proposed Rules. We agree with the NVCA's position and will not cover all areas in our response. We would like to provide the Commission with our thoughts on select items of particular concern to our firm.

Alta Partners is a life sciences venture capital firm that has raised approximately $2 billion of investment funds since our formation in 1996. Prior to our formation, several of our Managing Directors were founders and partners of Burr, Egan, Deleage. Collectively we have nearly 150 years of investing experience and since our formation in 1996 have funded over 130 companies.

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We believe our comments will help clarify how, under the currently Proposed Rules, certain activities that are part of a venture capital firm's operations would not be allowed and how the prohibition of those activities would impact the life sciences industry and our ability to act in the best interests of our investors. Throughout our history, the majority of our investments have been in the securities of non-publicly traded entities; however a part of each of our investment funds has been used to make investments in public securities. Investment in public securities would not be allowed under the Proposed Rules. Following are two scenarios illustrating when we would make public investments and how they are in-line with the purpose of a venture capital fund.

Investment in Existing Portfolio Company IPO – Over the last few years it has become increasingly common to the point of being expected, for the large existing investors of life sciences companies to invest as part of the company's initial public offering (IPO). In the life sciences industry, the IPO is usually a financing event rather that an exit event. Insider participation is common to demonstrate commitment to the new investors and to maintain the VCF ownership position. Based on recent market trends, restricting the ability of venture capital funds to invest in their existing portfolio company IPOs may greatly hamper the ability of these companies to access public markets.

Direct Public Investments – While it has never been a large percentage of our investments, each of our investment funds has made investments directly in the public securities of life sciences companies. As mentioned above, the IPO of a life sciences company usually happens before a company is financially independent and secondary offerings are the norm. Alta approaches these investments as we would any venture capital investment: significant due diligence, long-term knowledge of the company and its programs, and agreement for a board seat or management rights. These are not trading investments, but investments structured for the long term where we are closely involved with management. While we understand the Commission does not want VCF's to operate a fund which is essentially comprised of public market trading activities, we believe it would be beneficial to our investors and the life sciences industry to allow VCF's to make a certain number of the "venture type" public investments. A possible solution would be to allow a certain percentage of a fund's investments (i.e. 15% of committed capital) to be made in public securities.

We also believe that there should not be a restriction on how long a VCF is allowed to hold securities of a portfolio company post-IPO. As mentioned above, the IPO is rarely a liquidity event. Value creation and the ability to exit a company post-IPO is usually going to come as the company reaches significant clinical, regulatory, and eventually sales milestones which may be several years in the future.

Another area that we would like to address is the requirement that purchases be made directly from the portfolio company. Due to the long development cycle of a life sciences company, it is not uncommon for there to be situations where an early investor or founder desires or needs to achieve liquidity before the company has reached that point. Situations such as these give us the opportunity to increase our existing position in the portfolio company. Less commonly, we may make our entire initial investment into a portfolio company by acquiring shares from an existing investor. Again, this is usually treated as a "venture style" investment where we take a significant position and either a board or board observer seat and are heavily involved with management over longer time frames participating in subsequent financing rounds. These types of investments play a very small percentage of our total investments, but can be an important way to build or protect an existing position. They are also beneficial to the life sciences industry as they can provide some liquidity to founders and very early investors since the life cycle to ultimate liquidity on life sciences investments is quite long (typically 8-10 years). We feel that it would be reasonable to have a limitation on secondary investing by VCFs, but the limitation should be based on total fund size, not as a percentage of any one investment.

We would also like to suggest that careful attention is paid to the language regarding a qualified portfolio company's borrowing, redemption or exchange of securities to ensure that when securities are exchanged for another type during a recapitalization financing, a VCF is not deemed to have non-permitted activities.

We appreciated the Commission's request for feedback on the proposed definition and feel that with consideration of the matters addressed in our letter and the NVCA's, a definition can be crafted that will allow for the Commission's intent to provide an exemption for VCF's. Without such changes many VCF's will fail to meet the definition, which will put constraints on the life sciences industry, and while not providing any further protection of our industry's institutional investors.

Thank you for your consideration of our thoughts, and we would welcome the opportunity to clarify any of the points further.

Sincerely,

Hilary Strain

Hilary Strain
Chief Financial Officer
On behalf of the Managing Directors and Directors of Alta Partners