MEMO# 25630

November 8, 2011

SEC and CFTC Adopt Private Fund Reporting Requirements

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TO: MONEY MARKET FUNDS ADVISORY COMMITTEE No. 60-11
MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 55-11
SEC RULES COMMITTEE No. 99-11 RE: SEC AND CFTC ADOPT PRIVATE FUND REPORTING REQUIREMENTS

The Securities and Exchange Commission and the Commodity Futures Trading Commission adopted new rules to implement provisions of Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act. [*] The new SEC rule requires SEC-registered advisers with at least $150 million in private fund assets under management to report information on a new form (Form PF). The new CFTC rule requires private fund advisers required to file Form PF and also registered with the CFTC as commodity pool operators or commodity trading advisors to file Form PF to comply with certain reporting obligations that the CFTC may adopt in the future. In addition, such advisers would be permitted to report on Form PF regarding commodity pools that are not "private funds" to comply with certain reporting obligations that the CFTC may adopt in the future, allowing these advisers to consolidate certain of their reporting regarding private funds and non-private fund commodity pools.

Information reported on Form PF would remain confidential.

Reporting Requirements

Under the new requirements, these private fund advisers are divided by size into two broad groups—large advisers and smaller advisers.; The amount of information reported and the frequency of reporting depends on the group to which the adviser belongs.

"Large private fund advisers" are:

- Advisers with at least $1.5 billion in assets under management attributable to hedge funds.
- Liquidity fund advisers with at least $1 billion in combined assets under management attributable to liquidity funds (i.e., unregistered money market funds) and registered money market funds.

- Advisers with at least $2 billion in assets under management attributable to private equity funds. All other respondents are considered smaller private fund advisers.

In addition, the aggregation requirements have been modified from the proposal, which would have required advisers to report aggregated information regarding “parallel managed accounts,” defined as any of the adviser’s managed accounts or “other pools of assets” that pursue substantially the same investment objective and strategy and invest side by side in substantially the same positions as the private fund. Commenters, including ICI, argued that aggregating parallel managed accounts for reporting purposes would be difficult and result in inconsistent and misleading data. As a result, Form PF has been revised so that advisers are not required to aggregate parallel managed accounts with their private funds for reporting purposes, although the Form does require advisers to report the total amount of parallel managed accounts related to each reporting fund.

Smaller Private Fund Advisers

Smaller private fund advisers must file Form PF only once a year within 120 days of the end of the fiscal year, and report only basic information regarding the private funds they advise. This includes limited information regarding size, leverage, investor types and concentration, liquidity, and fund performance. Smaller advisers managing hedge funds must also report information about fund strategy, counterparty credit risk, and use of trading and clearing mechanisms.

Large Private Fund Advisers

Large private fund advisers must provide more detailed information than smaller advisers.; The focus and frequency of the reporting depends on the type of private fund the adviser manages.

- Large hedge fund advisers must file Form PF to update information regarding the hedge funds they manage within 60 days of the end of each fiscal quarter (instead of 15 days in the rule proposal). These advisers must report on an aggregated basis information regarding exposures by asset class, geographical concentration, and turnover by asset class. In addition, for each managed hedge fund having a net asset value of at least $500 million, these advisers are required to report certain information relating to that fund’s exposures, leverage, risk profile, and liquidity.
- Large liquidity fund advisers must file Form PF to update information regarding the liquidity funds they manage within 15 days of the end of each fiscal quarter. These advisers must provide information on the types of assets in each of their liquidity fund’s portfolios, certain information relevant to the risk profile of the fund, and the extent to which the fund has a policy of complying with all or aspects of Rule 2a-7.
- Large private equity fund advisers must file Form PF annually within 120 days of the end of the fiscal year. They must respond to questions focusing primarily on the extent of leverage incurred by their funds’ portfolio companies, the use of bridge financing, and their funds’ investments in financial institutions.

Compliance Dates

There will be a two-stage phase-in period for compliance with Form PF filing requirements.

Most private fund advisers will be required to begin filing Form PF following the end of their first fiscal year or fiscal quarter, as applicable, to end on or after December 15, 2012; however, the following advisers must begin filing Form PF following the end of their first fiscal year or fiscal quarter, as applicable, to end on or after June 15, 2012:

- Advisers with at least $5 billion in assets under management attributable to hedge funds.
- Liquidity fund advisers with at least $5 billion in combined assets under management attributable to liquidity funds and registered money market funds.
- Advisers with at least $5 billion in assets under management attributable to private equity funds.

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endnotes

[*] Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operaors and Commodity Trading Advisors on Form PF, SEC Release No. IA-3308 (October 31, 2011).