MANAGED FUNDS ASSOCIATION
The Voice of the Global Alternative Investment Industry
WASHINGTON, DC | NEW YORK

February 27, 2008

VIA ELECTRONIC FILING

Robert J. Doyle
Director, Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

Re: Proposed Amendment of Regulation 408(b)(2)

Dear Director Doyle:

Managed Funds Association ("MFA")[1] appreciates the opportunity to comment on the Department of Labor's proposed regulation under section 408(b)(2) of the Employee Retirement Income Security Act of 1974. The objective of the proposed regulation is to require certain disclosures from service providers to benefit plan fiduciaries for such fiduciaries to determine that a contract or arrangement for services is reasonable and, therefore, exempt from certain prohibited transaction provisions of ERISA.

Managed Funds Association supports the Department's goal of ensuring that plan fiduciaries are provided adequate information to enable them to fulfill their fiduciary obligations under ERISA. MFA commends the Department for proposing changes designed to bring greater clarity to the disclosures provided to benefit plan fiduciaries. MFA strongly agrees with the principle that adequate disclosure regarding compensation and fees received by service providers to plans and material conflicts of interest related to the services provided by service providers to plans is crucial for benefit plan fiduciaries to determine that the compensation or fees paid for services are reasonable.

While the proposed regulation focuses on this goal, MFA recommends several clarifications and modifications, which would help focus the regulation more

[1] MFA is the voice of the global alternative investment industry. Its members include professionals in hedge funds, funds of funds and managed futures funds. Established in 1991, MFA is the primary source of information for policy makers and the media and the leading advocate for sound business practices and industry growth. MFA members represent the vast majority of the largest hedge fund groups in the world who manage a substantial portion of the approximately $2 trillion invested in absolute return strategies. MFA is headquartered in Washington, D.C., with an office in New York.

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specifically on the Department's goal. We believe that these suggestions will help ensure that plan fiduciaries receive the information they need to make a determination about the reasonableness of compensation for service contracts in accordance with ERISA's standards.

MFA's comments generally fall into four categories. The first category is a request for clarification that the proposed regulation will not be applicable to investment advisers and affiliates that provide services to privately-offered pooled investment vehicles that do not constitute "plan assets" for purposes of ERISA because they do not have any class of equity securities owned 25 percent or more by benefit plan investors (as that term is defined in section 3(42) of ERISA) ("Non-Plan Asset Funds"). Next, MFA requests clarification that persons can rely on other available exemptions from the prohibited transaction provisions of ERISA, without needing to comply with the proposed regulation. Third, MFA seeks clarification on the requirement to disclose compensation and fees for certain situations. Last, MFA requests that the Department modify the scope of the required conflicts of interest disclosures to more narrowly focus on the Department's identified concerns.

The Department should exclude service providers to Non-Plan Asset Funds from application of the regulation

It is our understanding that the Department is considering service providers to pooled investment vehicles in which benefit plans invest,[2] such as hedge funds, as service providers for purposes of the proposed regulation, if the service provider to the fund falls under one of the three categories listed in the proposed regulation, even when the assets of the pooled investment vehicle are not plan assets under ERISA. Because pooled investment vehicles such as hedge funds do not typically have any employees, the investment vehicles hire service providers including investment advisers, banks, brokers and administrators, among others, which would be covered service providers under such an interpretation.

Section 406 of ERISA generally prohibits benefit plans from entering into transactions with parties in interest to the plan. Specifically, section 406(a)(1)(C) prohibits benefit plans from engaging in transactions that provide for the furnishing of goods, services, or facilities between the plan and a party in interest to the plan. Section 408(b)(2) of ERISA provides an exemption from the prohibited transactions under section 406. As discussed in more detail below, service providers to Non-Plan Asset Funds should not be considered parties in interest to benefit plans because they do not provide services to benefit plans and the assets of Non-Plan Asset Funds are not benefit

[2] It is worth noting that benefit plan investors in hedge funds are predominantly defined benefit plans, and defined contribution plans, particularly participant-directed defined contribution plans such as 401(k) plans, typically do not invest in hedge funds.

plan assets. As such, service providers to Non-Plan Asset Funds should not be subject to the prohibitions of section 406 and, therefore, should not need to rely on the exemption in section 408(b)(2).

Under existing Department regulations, when a benefit plan invests in the equity securities of another entity and those securities are not publicly-offered and the entity is not registered as an investment company, then the assets of that entity are considered "plan assets" for purposes of ERISA, unless the "[e]quity participation in the entity by benefit plan investors is not significant."[3] The regulation goes on to define equity participation as "significant" if, "25 percent or more of the value of any class of equity interests in the entity is held by benefit plan investors."[4] The preamble to the regulation states the Department's concern that the exception not be too broad because ERISA's plan fiduciary rules are not applicable to entities that fit within the terms of the safe harbor. In addition to the Department's regulations, the Pension Protection Act of 2006 amended Section 3 of ERISA by adding new subsection (42), which provides that "the assets of any entity shall not be treated as plan assets if, immediately after the most recent acquisition of any equity interest in the entity, less than 25 percent of the total value of each class of equity interest in the entity is held by benefit plan investors."[5] The Department regulations and section 3(42) of ERISA both clearly indicate the principle that service providers to Non-Plan Asset Funds are not parties in interest or fiduciaries to benefit plans and, therefore, are not subject to the provisions of section 406 of ERISA.

The Department has issued guidance regarding the principles applicable to such entities supporting this position. In Interpretive Bulletin 75-2,[6] the Department stated that an investment in an entity such as a Non-Plan Asset Fund will not make subsequent transactions between a party in interest and the entity a prohibited transaction under section 406.[7] The Interpretive Bulletin continues, "This general proposition, as applied to corporations and partnerships, is consistent with section 401(b)(1) of the Act, relating to plan investments in investment companies registered under the Investment Company Act of 1940."[8]

Interpretive Release 75-3[9] provides the Department's interpretation of section 3(21)(B) of ERISA, which the Release states is an elaboration of section 401(b)(1) of ERISA and Interpretive Release 75-2. Release 75-3 provides elaboration on the principle that assets of an investment company should not be deemed plan assets solely because a

[3] 29 CFR §2510.3-101(a)(2).
[4] 29 CFR§2510.3-101(f).
[5] 29 U.S.C. §1002(42).
[6] 29 CFR §2509.75-2.
[7] Id.
[8] Id.
[9] 29 CFR §29.2509.75-3.

plan has invested in the shares of an investment company. The Release states, "[c]onsistent with this principle, the [Department] interprets this section to mean that a person who is connected with an investment company, such as the investment company itself, its investment adviser or its principal underwriter, is not deemed to be a fiduciary of or party in interest with respect to a plan solely because the plan has invested in the investment company's shares."[10]

Read together, the Releases indicate a clear interpretation that service providers to Non-Plan Asset Funds should be treated similarly to service providers to registered investment companies, namely such service providers should not be considered fiduciaries or service providers to a benefit plan.[11] The Department's interpretive guidance that service providers to Non-Plan Asset Funds should not be considered fiduciaries to the plans that invest in such Funds is consistent with the definition of fiduciary in section 3(21) of ERISA. Section 3(21)(A) provides that a person is a fiduciary with respect to a plan to the extent he (i) exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (ii) renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) he has any discretionary authority or discretionary responsibility in the administration of such plan.[12]

Service providers to Non-Asset Plan Funds do not exercise any authority or control respecting management of a plan or disposition of the plan's assets. Further, such service providers do not have any authority or responsibility in the administration of such plan. Service providers to Non-Asset Plan Funds, therefore, clearly are not fiduciaries with respect to plans under clauses (i) and (iii) by virtue of their relationship with a Non-Asset Plan Fund.

With respect to clause (ii), the Department has issued regulation 3-21,[13] which defines fiduciary for purposes of section 3(21)(A)(ii) of ERISA. The regulation states that a person is a fiduciary for purposes of section 3(21)(A)(ii) only if the person renders advice to the plan as to the value of securities or other property, or makes recommendations as to the advisability of investing in, purchasing or selling securities or property.[14] An investment adviser to a Non-Asset Plan Fund does not render such advice

[10] Id.
[11] The Investment Company Institute has provided comments to the proposed regulation arguing that service providers to mutual funds should not be deemed service providers covered by the regulation, ICI Comment Letter, February 11, 2008. MFA concurs with the ICI that service providers to mutual funds should not be considered service providers to benefit plans and, as stated above, that service providers to Non-Plan Asset Funds should be given similar treatment.
[12] 29 U.S.C. §1002(21)(A)(i)-(iii).
[13] 29 CFR §2510.3-21.
[14] Id.

to the plan investors, but only to the Non-Asset Plan Fund. As such, an investment adviser to a Non-Asset Plan Fund should not be deemed a fiduciary under section 3(21)(A)(ii).

Because service providers to Non-Asset Plan Funds should not be deemed parties in interest or fiduciaries with respect to the benefit plan investors in those Funds, these service providers are not subject to section 406 of ERISA and should not be covered service providers in the proposed regulation. Adopting this interpretation is consistent with the goal of ensuring that plan fiduciaries have adequate information to assess the fees and expenses and conflicts of interest that are material to a determination of the reasonableness of the plan investing in a pooled investment vehicle.

The material fees and expenses and conflicts of interest associated with an investment in a pooled investment vehicle are provided as part of the offering materials vehicle provided to potential investors. MFA's model due diligence questionnaire,[15] which is intended to be used by investors such as benefit plans, includes questions regarding fees and expenses and conflicts of interest associated with an investment in a hedge fund, to encourage further discussion on these points between an investor and the manager of a fund. Further, instead of the approach taken in the proposed regulation, the Department could elaborate on the obligation of plan fiduciaries to obtain and consider adequate information about fees, expenses and conflicts of interest in connection with a decision whether to invest in a pooled investment vehicle through advisory or interpretive releases.

The Department should clarify that service providers to plans may continue to rely on other exemptions, exceptions and waivers from section 406

As discussed above, section 408(b)(2) of ERISA provides relief from the prohibited transaction provisions of section 406 of the Act. Section 408(b)(2) is not the exclusive source of relief from ERISA's prohibited transaction provisions. ERISA contains other statutory exemptions from section 406 and the Department has also issued various individual and class prohibited transaction exemptions.[16] We recommend that the Department clarify that compliance with the proposed regulation is only required for persons relying on the exemption in section 408(b)(2) of ERISA, and that persons may

[15] A copy of MFA's model questionnaire is attached as Exhibit A and is also available at www.mfainfo.org.
[16] Section 408 of ERISA provides exemptions from the prohibited transaction provisions of section 406. Section 408 contains a number of exemptions in addition to the one contained in subparagraph (b)(2) of that section. See, also, various prohibited transaction exemptions issued by the Department, including: PTE 84-14 for qualified professional asset managers; PTE 96-23 for in-house asset managers; PTE 91-38 for bank collective trusts; PTE 90-1 for insurance company pooled separate accounts; PTE 95-60 for insurance company general accounts; and PTE 75-1 for broker-dealers.

continue to rely on other exemptions from section 406, to the extent that such other exemptions are available, without regard to the proposed regulation.

The Department should clarify the requirements to disclose compensation or fees received by service providers and their affiliates

For service providers to pooled investment vehicles that have a class of equity securities owned 25 percent or more by benefit plans ("Plan Asset Funds"), MFA recommends that the Department make several clarifications to the provisions of the proposed regulation regarding disclosures of fees and expenses to be received by affiliates of a service provider to a Plan Asset Fund. Although MFA supports the Department's goal of ensuring adequate disclosure of these fees and expenses, the proposed regulation as drafted would be difficult to implement in certain situations.

The proposed regulation requires covered service providers to plans to disclose all compensation or fees they will receive in connection with the services to be provided to the plan. Paragraph (c)(1)(iii)(A)(1) of the proposed regulation defines compensation or fees broadly, so as to include anything of monetary value received by the service provider or its affiliates in connection with the services provided to the plan. The proposed regulation states that a service provider can disclose a monetary amount, formula, percentage of plan's assets or per capita charge in complying with this requirement.

<u>Clarification on form of disclosure of compensation or fees received</u>

The text of the proposed regulation is not clear whether a service provider must provide this disclosure in the form of a monetary amount, if available. MFA recommends that the Department clarify that a service provider can elect to disclose compensation or fees by any of the means provided for in the rule. Such an interpretation would allow for adequate disclosure to permit plan fiduciaries to determine the reasonableness of compensation to be received by a service provider without requiring a specific form of disclosure.

<u>Clarification on disclosure when specific information regarding compensation or fees is not known</u>

The Department should also provide clarification that service providers can provide general disclosure regarding compensation or fees to be received when more specific information is not known to the service provider.

For example, an investment adviser to a Plan Asset Fund may, from time to time, use an affiliated broker-dealer to execute certain transactions on behalf of the Fund. The determination of whether to use an affiliated broker-dealer is generally not made in advance, such that specific information about the amount of compensation to be received by the broker-dealer is not known in advance.[17] Further, there may not be any formula, percentage of assets or per capita charge that could be disclosed as the compensation to be received by the affiliated broker will vary depending on the extent to which the affiliate is used, and the types of transactions for which the affiliate is used.

For situations when the service provider has information at a later date about compensation or fees received by an affiliate, the Department could require the service provider to disclose the compensation or fees actually received by the service provider's affiliates. More detailed information about compensation received by an affiliate of the service provider to a Plan Asset Fund could be disclosed subsequently, as part of an annual statement to investors in the Fund, for example.

Clarification on disclosure of compensation to affiliates when a service provider does not make the decision to use the affiliate

In addition to the circumstances described above, there may also be situations in which an affiliate of a service provider to a Plan Asset Fund, such as the investment manager of a fund of hedge funds, receives compensation from one of the underlying hedge funds in which the Plan Asset Fund of Funds is an investor. In these situations, the investment adviser to the Plan Asset Fund of Funds does not have the ability to determine which service providers the underlying fund advisers may use (and in fact, plays no role in the decision making process of the underlying manager) and there is no link between the investment in the underlying fund and the underlying fund adviser's determination on whether to use an affiliate of the investment adviser to the Plan Asset Fund of Funds to execute transactions for the underlying fund. In requiring disclosure of compensation received by affiliates of a service provider, the Department correctly focuses on the conflict of interest such compensation arrangements can create. For the reasons discussed above, there does not appear to be a conflict of interest for the service provider to the Plan Asset Fund of Funds.

Moreover, the service provider to the Plan Asset Fund of Funds may not know whether an affiliate is receiving compensation from an underlying fund for certain kinds of services provided to the underlying fund (such as services provided by executing brokers). In such a situation, the affiliated executing broker may be receiving compensation as part of the fees or expenses of the underlying fund. The service provider to the Plan Asset Fund of Funds, however, would not know that its affiliate was receiving compensation. Even if the service provider to the Plan Asset Fund of Funds were aware that the underlying fund was using an executing broker affiliated with the service provider to the Plan Asset Fund of Funds, the service provider would not

[17] An adviser's ongoing obligation to seek best execution on behalf of its clients leads to this result.

necessarily have complete information as to the compensation being received by the affiliated executing broker.

In this situation, we believe that it would be appropriate for the service provider to the Plan Asset Fund of Funds to disclose the possibility that advisers to underlying funds may elect to use affiliates of the service provider to the Plan Asset Fund of Funds. To the extent that the service provider to the Plan Asset Fund of Funds knows that one of its affiliate will be used to provide services to an underlying fund, we believe it would be appropriate for the service provider to disclose that its affiliate will be used by the underlying fund. Such disclosure would provide benefit plan fiduciaries with information so they can understand that the underlying fund may (or will, as applicable) enter into transactions with an affiliate of the service provider to the Plan Asset Fund of Funds, but that there is no potential conflict of interest because there is no link between the Fund of Funds' investment in the underlying fund and any decision by the underlying fund adviser to enter into transactions with an affiliate of the service provider to the Plan Asset Fund of Funds.

Because service providers to a Plan Asset Fund of Funds do not have the ability to determine whether or not an underlying fund will use an affiliated service provider, MFA recommends that the Department clarify that a service provider to a Plan Asset Fund of Funds is required to disclose all compensation or fees received by the service provider and its affiliates only to the extent that the service provider knows that the affiliate is receiving compensation and the service provider has the ability to decide whether or not to use the affiliated service provider. To the extent that the service provider to a Plan Asset Fund does have the ability to determine whether an affiliate of the service provider will receive compensation, then that compensation arrangement should be disclosed.

Clarification on disclosure of gifts

The proposed regulation's broad definition of compensation includes items such as gifts, entertainment and attendance at conferences. While MFA agrees that non-monetary gifts could give rise to similar conflicts of interest concerns as monetary compensation, we believe the proposed regulation could be more narrowly tailored to address this concern without overburdening service providers or plan fiduciaries with extraneous information. We recommend the Department clarify that when items such as gifts, entertainment and attendance at conferences are received by the service provider because of an overall relationship with the giver, and not in connection with services being provided to the plan, then no disclosure needs to be made. In these situations, there does not appear to be a conflict of interest relating to the services being provided to the benefit plan. Further, even when items such as gifts, entertainment and attendance at conferences are received by a service provider in connection with services being provided to the plan, if the amounts do not exceed the de minimis amounts in the Form 5500 instructions, we recommend that the Department clarify that there is no disclosure requirement.

MFA also recommends that the Department reconsider the requirement to make advance disclosure of items such as gifts, entertainment and attendance at conferences in circumstances other than those described above; as it would not be possible to accurately disclose with any kind of specificity whether a service provider or its affiliates may receive these kinds of items. We recommend that the Department clarify that service providers can generally disclose that they may receive these types of items. The Department could also require that a service provider disclose at a later date the items actually received by the service provider or its affiliates, subject to the exceptions discussed above.

The Department should modify the breadth of the disclosures regarding conflicts of interest

MFA agrees with the principle that plan fiduciaries should be aware of a service provider's material conflicts of interest, as such conflicts are an important consideration in determining the reasonableness of the service provider's contract with the plan. The proposed regulation, however, goes far beyond this principle by requiring disclosure of any material relationship with any entity that creates or may create a conflict of interest for the service provider in providing services to the plan.

As drafted, this disclosure could be interpreted to require a service provider to be aware of every entity with which the plan has a relationship. At best, this interpretation would create an enormous compliance burden as the service provider would have to compare that list with the list of all of its relationships and the relationships of each of its affiliates providing services to the plan to determine if there is any relationship that could create a potential conflict of interest. At worst, this interpretation would result in an impossible requirement for service providers to comply with, as the service provider may not be able to obtain this information from the benefit plan, or even from the service provider's affiliates. A service provider that is part of a large financial institution, or group of financial institutions, may not have access to all of the relationships that its affiliates have, as such information may be blocked for compliance or regulatory reasons.

As part of the offering materials for any Plan Asset Fund (as well as any Non-Plan Asset Fund), the Fund is required to disclose all material conflicts of interest. Further, disclosure of the compensation or fees received by the service provider to the Plan Asset Fund and the service provider's affiliates is required by the proposed regulation.[18] Together, these requirements ensure that plan fiduciaries already will

[18] Investment advisers to Non-Plan Asset Funds also provide disclosure of the material fees and expenses that will be paid by the Fund's investors.

receive information about material conflicts of interest. Requiring additional disclosure about all other conflicts or potential conflicts would place undue burdens on service providers, while providing marginal, if any, benefit to plan fiduciaries. Indeed, this type of broad disclosure dilutes the value of the information provided, as plan fiduciaries may be forced to read through extensive disclosure that they would not consider material, making it more difficult to determine which conflicts should be given the most consideration.

MFA recommends that this requirement be modified to require a service provider to disclose material conflicts of interest of which it is aware. Further, the Department should clarify that materiality is an objective standard, based on what a reasonable plan fiduciary would need to know to evaluate its decision whether to make an investment in a pooled investment vehicle.

MFA commends the Department for proposing changes designed to bring greater clarity to the disclosures provided to benefit plan fiduciaries. MFA strongly agrees with the principle that adequate disclosure regarding compensation and fees received by service providers to plans and material conflicts of interest related to the services provided by service providers to plans is crucial for benefit plan fiduciaries to determine that the compensation or fees paid for services are reasonable. We believe that the above suggestions will help ensure that plan fiduciaries receive the information they need to make such a determination in accordance with ERISA's standards.

If you have any questions with respect to our comments, please contact me at (202) 367-1140.

Sincerely,

Richard H. Baker
President and Chief Executive Officer

EXHIBIT A

MANAGED FUNDS ASSOCIATION

MODEL DUE DILIGENCE QUESTIONNAIRE FOR HEDGE FUND INVESTORS

INTRODUCTION

This Model Due Diligence Questionnaire was prepared and published by Managed Funds Association ("MFA") in consultation with Hedge Fund Members of MFA and outside groups representing Hedge Fund investors. This questionnaire was designed to identify the kinds of questions that a potential investor may wish to consider before investing in a Hedge Fund. In particular, we have tried to identify questions that may help amplify on or provide additional details to the disclosure in a Hedge Fund's offering documents.

We believe that hedge funds are valuable to our capital markets and provide investors with valuable portfolio diversification and risk management. Our goal is to provide potential investors in Hedge Funds a questionnaire to be used as a reference in performing their due diligence before investing in a Hedge Fund.

Our members have diverse strategies, investment styles, risk tolerances, and legal structures. Therefore, this questionnaire is designed to provide a basis for investors to commence their due diligence and is not designed to be an exhaustive list of questions that may be relevant to an investor. We encourage the use of this document as a resource in conducting due diligence in connection with an investment in a Hedge Fund, but also urge users to modify this document to address their particular needs and to address any additional matters that they consider material to an investment in a Hedge Fund. This document is also incorporated into MFA's *Sound Practices for Hedge Fund Managers* (2007 Edition) as Appendix II.

Before responding to any question in this, or any other questionnaire, a Hedge Fund Manager must recognize and take into consideration applicable securities laws and its responsibilities under those laws. Therefore, an investor should bear in mind that a Hedge Fund Manager may modify, as it deems appropriate, in light of the Hedge Fund Manager's business and legal or regulatory obligations, any question in this or any other questionnaire. In addition, a Hedge Fund Manager may choose not to respond to a particular question in light of confidentiality concerns. Any information provided in this questionnaire by a Hedge Fund Manager is current only as of the date this questionnaire is completed and the Hedge Fund Manager has no obligation to update or supplement any of the answers given, and assumes no responsibility for the accuracy of the answers provided after the date the questionnaire is completed.

ABOUT MFA

MFA is the voice of the global alternative investment industry. Its members include professionals in hedge funds, funds of funds and managed futures funds. Established in 1991, MFA is the primary source of information for policy makers and the media and the leading advocate for sound business practices and industry growth. MFA members represent the vast majority of the largest hedge fund groups in the world who manage a substantial portion of the approximately $2 trillion invested in absolute return strategies. MFA is headquartered in Washington, D.C., with an office in New York.

For more information, please contact Managed Funds Association's government relations team at 202.367.1140 or visit our Web site at www.managedfunds.org.

Unless otherwise indicated, the information below is as of [recent date].

I. INVESTMENT MANAGER OVERVIEW

A. General Information:

1. Firm Name:
2. Firm Headquarters:
3. Placement Agent, if any:
4. Placement Agent Address:
5. Contact Name:
6. Contact Telephone Number:
7. Contact Fax:
8. Contact Email:

B. Firm Description

Please provide a brief description of the firm.

C. Investment Manager Entities and Organizational Structure

Please describe the relevant entities of the investment manager or adviser and their ownership structure. Have there been any material changes to the entities themselves (*e.g.*, additions or deletions) or to the ownership structure of those entities in the past three years?

D. Personnel

1. Please briefly describe the background of the firm's key investment personnel.
2. For the firm's key investment personnel that have left the firm over the past three years, please explain any non-routine reasons for the departures.
3. Please describe the firm's supervisory structures (*e.g.*, management committees).
4. How many employees does the firm have supporting investment management businesses in total? How many by function? If the firm or its affiliates maintain multiple offices, how are these employees distributed geographically?

E. Service Providers

1. Auditor

   a. Who audits the investment vehicles managed by the firm?

   b. Does the auditor have an affiliation or any business relationship with the firm or any of its affiliates outside of the audit relationship itself? Has the firm or any of its affiliates retained the auditor or any of its affiliates for other engagements, such as consulting services, financial statement preparation, or tax services? If so, please describe.

   c. Has the current auditor audited the firm's investment vehicles in each of the last three years? If not, please describe the circumstances of any audit engagement changes made.

   d. Has any investment vehicle managed by the firm ever received a qualified audit opinion? If so, please describe.

   e. Has an auditor ever requested a material restatement of financial statements or performance results of any investment vehicle managed by the firm? If so, please describe.

2. Has the firm engaged any third-party marketing agent? If so, please describe the terms of this engagement.

3. Who serves as legal counsel for the firm?

4. Does the firm outsource any accounting or operational functions to third parties? If so, please describe. Does the firm periodically review the performance of any such service providers? How is this review conducted?

F. Compliance System and Registrations with Regulatory Authorities

1. Please describe the firm's compliance regime. Does the firm have a designated Chief Compliance Officer ("CCO")? If so, please briefly describe the background of the CCO, and explain whether the CCO has any responsibilities other than those relating to compliance matters.

2. Is the firm or any of its affiliates registered with any regulatory authorities? If so, please describe. If the firm has not registered with the U.S. Securities and Exchange Commission as an investment adviser, please explain the exemption upon which the firm currently relies and if it intends to register in the next 12 months.

3. Does the firm maintain and periodically review written compliance policies and procedures, including a code of ethics? If not, please explain.

4. Does the firm have a written policy on the handling and safeguarding of any material, non-public information in its possession, including a process to educate employees? If not, how is material, non-public information protected, and how are these processes communicated to employees?

5. Does the firm have written policies regarding personal account trading by employees? If so, please describe. If not, is personal account trading monitored, and how are standards of conduct communicated to employees?

6. Does the firm maintain written procedures on the provision and receipt of gifts and entertainment? If not, how is such activity monitored, and how are standards of conduct communicated to employees?

7. Does the firm maintain written Anti-Money Laundering ("AML") procedures? Is there a designated AML compliance officer? If not, how are AML checks conducted?

8. Please describe any material soft dollar arrangements the firm currently maintains.

9. Please describe any material directed brokerage arrangements the firm currently maintains.

G. Legal Proceedings

1. In the past five years: (a) have there been any criminal or administrative proceedings or investigations against the firm, a principal or key employee of the firm, or any affiliate of the firm; or (b) have there been any civil proceedings against the firm, a principal, or key employee of the firm, or any affiliate of the firm in each case that resulted in an adverse disposition? If so, please describe.

2. Is the firm currently aware of any pending criminal or administrative proceedings against the firm, a principal, or key employee of the firm, or any affiliate of the firm?

3. Have any adverse dispositions materially impacted any of the funds or accounts managed by the firm?

H. Infrastructure and Controls

1. Please describe the firm's current trading, portfolio management, and post-trade reconciliation and accounting infrastructure, identifying any significant deployments of third-party software.

2. Please describe how trades are generally executed. What types of controls are typically used to help prevent unwanted executions from occurring?

3. Please describe the typical trade reconciliation process and frequency. What segregations of duty are generally employed in the process?

4. Please describe how cash or other asset transfers can be authorized, both for transfers within a vehicle managed by the firm, as well as to external parties. What types of controls are generally used to prevent unwanted transfers from occurring?

5. Please describe how the firm handles trading errors.

6. Does the firm or its affiliates retain errors and omissions insurance?

I. Business Continuity

Does the firm maintain a written BC/DR plan? If not, how does the firm plan to maximize its ability to recover from business interruptions?

II. OVERVIEW OF ACTIVITIES OF THE INVESTMENT MANAGER

A. Vehicles Managed

1. Please provide a description of the major investment vehicles managed by the investment manager.

2. What are the aggregate assets under management of the investment manager?

3. Does the firm manage separate accounts? If so, please describe.

4. Does the investment manager or any of its employees have an interest in any of the investment vehicles managed by the investment manager? If so, what is the amount of this interest in the aggregate?

B. Other Businesses

Does the investment manager engage materially in other businesses apart from asset management? If so, please describe.

C. Conflicts of Interest

1. Please describe those conflicts of interest that you consider material to the management of the investment vehicles. How do you address these conflicts?

2. Does the firm engage in cross-trades or principal cross-trades with or among the accounts and/or investment vehicles it manages? If so, what controls are generally in place to protect the participating investment vehicles or accounts?

3. Does the firm have any affiliates or subsidiaries that are broker-dealers or execution agents? If yes, do these broker-dealers or execution agents: (a) execute on behalf of investment vehicles managed by the firm; and (b) charge commissions or mark-ups on these executions or otherwise bill expenses to investment vehicles managed by the firm in instances in which the investment vehicle is not the sole owner of the execution agent or broker-dealer? If so, please describe these arrangements.

III. FUND INFORMATION

A. Fund Overview and Investment Approach

1. Please describe the fund's legal structure.

2. Please provide a brief description of the investment strategies generally deployed by the fund.

3. What types of financial instruments does the fund generally trade?

4. In which geographical markets does the fund generally trade?

5. Approximately how many positions does the fund generally hold? What is the typical maximum position size?

6. Please describe the portfolio turnover.

B. Fund Capital and Investor Base

1. What is the capital base of the fund?

2. How many investors are currently invested in the fund?

3. If the fund maintains a master-feeder structure with both U.S and non-U.S. "feeder" entities, what percentage of the capital base is invested in the U.S. fund? The non-U.S. feeder fund?

C. Fund Terms

1. Are there multiple classes of interests or multiple "feeder" entities in the fund?

2. Please list, for each class of interest or feeder:

a. Investment minimum;

b. Management fee;

c. Performance fee, including hurdle rates, high-water marks, and loss carryforwards, if any; and

d. Redemption terms, including any fees payable, lock-ups, gating provisions, or other restrictions.

3. Can the investment manager suspend redemptions, suspend the payment of redemption proceeds, pay redemption proceeds in-kind, or otherwise elect to deviate from the redemption terms described in 2(d) above? If so, please describe.

4. Have gates been imposed in the past? If so, under what circumstances were the gates imposed? If gates have been imposed in the past, have those gates been lifted? If so, under what circumstances were the gates lifted?

5. Does the firm generally charge additional expenses to the fund, including operating expenses, audit fees, administrative fees, fund organizational expenses, legal fees, sales fees, salaries, rent, or other charges not detailed in (2) above? If so, please describe. What was the total amount of these expenses in each of the last three calendar years as a percentage of total fund assets under management, if applicable?

6. What is the firm's policy with regard to side letters? Do any investors in the fund experience fee or redemption terms that differ materially from those listed above? If so, please describe.

D. Performance History

Please provide a performance history for the fund.

E. Risk Management

1. Please describe the firm's risk management philosophy and discuss the approach used by the firm in the management of the fund's exposure to: equity, interest-rate, currency, and credit market risk (as applicable); financing and counterparty risk; and operational risk.

2. Does the firm rely on third parties to perform any portion of its risk management function?

3. What types of risk measures does the firm use in its risk management function?

F. Valuation

1. Please describe the process of valuation of the fund's positions, including valuation process for positions that do not have a market price. Please discuss in particular the frequency of valuation and whether any third-party services are employed in the valuation process (and, if so, how these third parties are monitored).

2. Has the fund had a material restatement of its financial statements or any prior results since inception? If so, please describe. Was the restatement the result of an audit by an external auditing firm?

G. Fund Service Providers

1. If the fund employs an administrator, please provide its contact information.

2. Please provide information concerning legal counsel used by the fund, if any.

3. Please name the main prime brokers used by the fund.

H. Investor Communications

What types of investor communication does the fund currently provide, and with what frequency?