

Administration's Regulatory Reform Agenda Moves Forward: Legislation for the Registration of Hedge Funds Delivered to Capitol Hill

Continuing its push to establish new rules of the road and make the financial system more fair across the board, the Administration today delivered proposed legislation to Capitol Hill to require all advisers to hedge funds and other private pools of capital, including private equity and venture capital funds, to register with the Securities and Exchange Commission (SEC). In recent years, the United States has seen explosive growth in a variety of privately-owned investment funds, including hedge funds, private equity funds, and venture capital funds. At various points in the financial crisis, de-leveraging by such funds contributed to the strain on financial markets. Because these funds were not required to register with regulators, the government lacked the reliable, comprehensive data necessary to monitor funds' activity and assess potential risks in the market. The Administration's legislation would help protect investors from fraud and abuse, provide increased transparency, and provide the information necessary to assess whether risks in the aggregate or risks in any particular fund pose a threat to our overall financial stability.

Protect Investors From Fraud And Abuse

Require Advisers To Private Investment Funds to Register With The SEC. Although some advisers to hedge funds and other private investment funds are required to register with the Commodity Futures Trading Commission (CFTC), and some register voluntarily with the SEC, current law generally does not require private fund advisers to register with any federal financial regulator. The Administration's legislation would, for the first time, require that all investment advisers with more than \$30 million of assets under management to register with the SEC. Once registered with the SEC, investment advisers to private funds will be subject to important requirements such as:

- Substantial regulatory reporting requirements with respect to the assets, leverage, and off-balance sheet exposure of their advised private funds
- Disclosure requirements to investors, creditors, and counterparties of their advised private funds
- Strong conflict-of-interest and anti-fraud prohibitions
- Robust SEC examination and enforcement authority and recordkeeping requirements
- Requirements to establish a comprehensive compliance program

Require Increased Disclosure Requirements. The Administration's legislation would require that all investment funds advised by an SEC-registered investment adviser be subject to recordkeeping requirements; requirements with respect to disclosures to investors, creditors, and counterparties; and regulatory reporting requirements.

Protect Financial System From Systemic Risk

Monitor Hedge Funds For Potential Systemic Risk. Under the Administration's legislation, the regulatory requirements mentioned above would include confidential reporting of amount of assets under management, borrowings, off-balance sheet exposures, counterparty credit risk exposures, trading and investment positions, and other important information relevant to determining potential systemic risk and potential threats to our overall financial stability. The legislation would require the SEC to conduct regular examinations of such funds to monitor compliance with these requirements and assess potential risk. In addition, the SEC would share the disclosure reports received from funds with the Federal Reserve and the Financial Services Oversight Council. This information would help determine whether systemic risk is building up among hedge funds and other private pools of capital, and could be used if any of the funds or fund families are so large, highly leveraged, and interconnected that they pose a threat to our overall financial stability and should therefore be supervised and regulated as Tier 1 Financial Holding Companies.