

## Form PF: CFTC and SEC Jointly Propose New Disclosure Rules for Investment Advisers of Private Funds

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February 28, 2011

On January 26, 2011, as required under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the U.S. Commodity Futures Trading Commission (“CFTC”) and the U.S. Securities and Exchange Commission (“SEC”) jointly proposed new disclosure requirements for investment advisers to private funds. The proposed rules require certain information about private funds to be disclosed by electronically filing a new reporting form called “Form PF” with the SEC. The information provided in the Form PF will be used by the Financial Stability Oversight Council to monitor systemic risk in the financial system.

The proposed SEC rule requires Form PF to be completed and filed by investment advisers who are (1) registered or required to register with the SEC under the Investment Advisers Act of 1940, as amended (the “Advisers Act”), and (2) who manage one or more private funds. The proposed CFTC rule applies the same Form PF filing requirement to commodity pool operators (“CPO”) and commodity trading advisers (“CTA”) who are (1) registered or required to register with the CFTC under the Commodity Exchange Act (the “CEA”), (2) registered or required to register with the SEC under the Advisers Act, and (3) who also manage one or more private funds. For managers registered with both the SEC and CFTC, filing Form PF would be deemed a filing with both the SEC and the CFTC.

The proposed Form PF requires basic information about the private fund adviser, the assets under management, and fund performance. The information required by Form PF would be confidential (non-public) to the extent permitted under applicable law. The required frequency of reporting and updating would depend on the size of the private fund adviser and the types of funds being managed. Private fund advisers who have less than \$1 billion in assets under management would be required to file Form PF annually. In contrast, large private fund advisers, defined as those with at least \$1 billion in assets under management, would be required to file Form PF quarterly and provide more detailed information. This \$1 billion threshold would apply to advisers of hedge funds and private equity funds.

Under the proposed rules, “exempt reporting advisers” (i.e., advisers solely to venture capital funds or advisers solely to private funds that in the aggregate have less than \$150 million in assets under management in the U.S.) will not be required to file Form PF.

The SEC and the CFTC are currently seeking public comment on the proposed rules.

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