Americans for Financial Reform
Accountability, Fairness, Security

Support Comprehensive Regulation of Hedge Funds, Private Equity and Venture Capital

Why we need comprehensive regulation of hedge funds, private equity and venture capital:

Financial oversight has failed to keep up with the realities of the marketplace, characterized by globalization, innovation, and the convergence of lending and investing activities. As President Obama said during the campaign, "We need to regulate institutions for what they do, not what they are."

This means that unregulated pooled investment vehicles, including hedge funds, private equity and venture capital, have been major participants in the shadow financial markets. Private equity and hedge funds and their managers should be subject to more stringent oversight that, at a minimum, requires greater transparency, ensures that managers act in the best interest of investors, and subjects the funds to capital adequacy requirements and leverage limits.

Self-regulation is a myth. Sophisticated investors cannot and should not be relied upon to protect their own long-term financial interests or to avoid overly risky activities that can threaten the health of the financial markets and the global economy. This does not necessarily mean that all participants in the financial markets must be subject to identical regulatory requirements. But regulators must ensure a minimum level of transparency, accountability, and mandated risk management across the financial markets.

Key elements of strong regulation

<u>No exemptions</u>. All private investment funds should be subject to the same level of regulation. Exemptions give Ponzi schemes a place to hide. For example, if Congress exempts venture capital funds from regulation, Ponzi schemes are likely to claim to be venture capital funds to avoid detection by the SEC.

<u>Transparency</u>. It is essential that the SEC has access to information about private investment funds and has the authority to require them to provide disclosures to investors, prospective investors, counterparties and creditors. These disclosures are important to prevent systemic risks and provide investors with the information necessary to make responsible investment decisions. In addition, public disclosure would allow creditors and counterparties to fully assess second- and third-level counterparty exposures and further help to prevent financial institutions from taking on exposures to risky counterparties that could lead to systemic threats.

<u>Regulation must be comprehensive</u>. It is not enough to regulate the adviser. The funds themselves must be regulated as well. They are separate entities and each poses unique regulatory concerns.

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