



Americans for Financial Reform Education Fund

Vanessa A. Countryman
Securities and Exchange Commission
100 F St NE
Washington, DC 20549

June 13, 2022

Re: Private Fund Advisers; Documentation of Registered Investment Adviser Compliance Reviews (File No: S7-03-22)

Dear Secretary Countryman,

The Americans for Financial Reform Education Fund appreciates this opportunity to submit an additional comment on the Securities and Exchange Commission's ("the Commission") re-opened comment period on the agency's proposal to require private fund advisers to disclose to investors a greater level of detail around their fees and returns, and around the existence of side letters.

The lack of clear information provided to private fund investors puts them at a dangerous disadvantage

As a number of commenters have written to the Commission, it is increasingly clear that investors in private funds are not receiving detailed or complete information around fees, expenses, and returns, undermining the fairness of these markets and investors' ability to negotiate to protect their own interests.¹

Examples include truly one-sided arrangements where investors are asked to waive the fiduciary duty requirements owed by the fund adviser.²

The fairness of these markets is further obscured by bilateral negotiations via "side letters" that create varying, hidden tiers of preferential treatment.³

¹ Trine Acquisition Corp. <https://www.sec.gov/comments/s7-03-22/s70322-20125162-284463.pdf>

² New York State Insurance Fund. <https://www.sec.gov/comments/s7-03-22/s70322-20126602-287254.pdf>

³ National Conference on Public Employee Retirement Systems. <https://www.sec.gov/comments/s7-03-22/s70322-20124991-282966.pdf>

In some instances, as other commentators have pointed out, the most aggressive private fund advisers have abused these information asymmetries to shift assets and value away from investors.⁴

The question is not whether investors in private funds are “sophisticated” and therefore not in need of investor protections; no investor can make sound decisions without accurate and sufficient information.

We therefore reiterate our support for the Commission’s proposals to require private fund advisers to provide a complete breakdown of fees and expenses as well as require disclosures of all side letters.⁵

Quarterly disclosures will even the playing field for investors

A granular set of quarterly disclosures will simply provide investors with information that advisers typically are already collecting⁶ as part of managing their portfolio companies.,

Assumptions behind returns especially important as private market valuations fluctuate

Private fund investors have already experienced several instances where their private investments in companies were unexpectedly and quickly wiped out. For example, investors in EnCap Investments, saw their investments in US energy company Southland Royalty plunge from \$773.7 million in September 2019 to zero by the end of 2019.⁷

Since the Commission released its proposal, the valuations of several illiquid, private funds look to fall, the pace of which also being watched closely in light of the sharp price movement across their corresponding publicly traded companies. Already, one of the largest hedge funds, Tiger Global, is reporting to clients 52% losses on the year across a mix of both its public and private investments.⁸

This underlines the importance of the Commission’s proposal to require advisers to use a consistent and standard reporting framework for returns, including laying out the assumptions and expectations used in performance reporting and projected returns.

Conclusion

⁴ Charitable DAF Fund, L.P. <https://www.sec.gov/comments/s7-03-22/s70322-20126732-287427.pdf>

⁵ Americans for Financial Reform Education Fund. <https://www.sec.gov/comments/s7-03-22/s70322-20126659-287365.pdf>

⁶ Parmar, Hema and Weiss, Miles. Bloomberg News. D1 Borrowed Billions for a Hot Hedge Fund Bet Facing Reckoning. Jun 8, 2022.

⁷ Private Equity Insights. Private equity faces pressure over ‘mark-to-myth’ valuations. Feb 6, 2020. <https://pe-insights.com/news/2020/02/06/private-equity-faces-pressure-over-mark-to-myth-valuations/>

⁸ Parmar, Hema. Bloomberg News. Tiger Global’s 52% Plunge Prompts Fee Cut, Redemption Plan. Jun 2, 2022. <https://news.yahoo.com/tiger-global-losses-reach-52-130320805.html>

We thank the Commission for this opportunity to comment on this important matter. For any questions please reach out to Andrew Park at andrew@ourfinancialsecurity.org.