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CORPORATE & FINANCIAL
WEEKLY DIGEST

Corporate & Financial Weekly Digest

Posted at 1:20 PM on January 28, 2011 by Joseph Iskowitz

SEC and CFTC Jointly Propose Private Fund Systemic Risk Reporting Rule

Co-authored by Maxwell Li and Robert Grundstein

The Commodity Futures Trading Commission and Securities Exchange Commission jointly proposed rules that would implement Sections 404 and 406 of the Dodd-Frank Wall Street Reform and Consumer Protection Act by creating a new Form PF, which is designed to gather information regarding the private fund industry that would be useful to the Financial Stability Oversight Council in monitoring systemic risk. Form PF would be required to be filed periodically by any investment adviser registered or required to be registered with the SEC that advises one or more private funds. The proposed CFTC rule would require commodity pool operators (CPOs) and commodity trading advisors (CTAs) registered with the CFTC to file Form PF with the SEC in lieu of proposed CFTC filing requirements, but only if those CPOs and CTAs are also registered with the SEC as investment advisers and advise one or more private funds. Information reported on Form PF would generally remain confidential.

Under the proposed rules, smaller private fund advisers (less than $1 billion in assets under management) would file Form PF once a year and would report only basic information regarding the private funds they advise, including details regarding assets under management, borrowings and leverage, derivatives, credit providers, investor concentration and fund performance. Smaller private fund advisers that manage hedge funds would also report information about fund strategy, counterparty credit risk and use of trading and clearing mechanisms.

Large private fund advisers ($1 billion or more in assets under management) would be required to file Form PF on a quarterly basis and would provide the same information required for smaller advisers as well as additional information that differs depending on the type of private funds that the adviser manages. Large private fund advisers to hedge funds would report on an aggregated basis details regarding exposure by asset class, geographical concentration and turnover. In addition, for each managed hedge fund having a net asset value of at least $500 million, these advisers would report details relating to that fund's investments (such as long and short exposure by asset class), leverage and collateral practices, counterparty exposure, risk profile, portfolio liquidity and redemption restrictions. Large private fund advisers to private equity funds would be required to report additional details relating to fund finances and investments, including the extent of borrowings, guarantees and leverage of their funds' portfolio companies and the use of bridge financing. Large private fund advisers to liquidity funds, such as money market funds, would also be required to file information relating to the liquidity funds that they advise.

To read the SEC's press release, click here.
To read the proposing release, which includes proposed Form PF, click here.

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