

## SEC and CFTC Adopt Private Fund Systemic Risk Reporting on Form PF

The U.S. Securities and Exchange Commission ("SEC") on October 26, 2011 unanimously adopted a new rule ("Rule") and new form under the Investment Advisers Act of 1940 ("Advisers Act") to implement provisions of Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").<sup>1</sup> These provisions require certain investment advisers registered with the SEC to file the new Form PF ("Form PF" or "Form") with the SEC.<sup>2</sup> Form PF is designed to provide the new Financial Stability Oversight Council ("FSOC") with information necessary to help it monitor the systemic risk created by private funds and to determine whether particular entities should be designated as "significant financial institutions" ("SIFIs").<sup>3</sup> In addition, the information obtained by the FSOC from

Form PF filings is intended to enable the FSOC to consider and recommend to primary financial regulators new regulations designed to mitigate systemic risk.<sup>4</sup>

While those who commented on the proposed rule generally supported the goal of Form PF to serve as part of a regime to monitor systemic risk, many objected to the scope, frequency and timing of the proposed reporting.<sup>5</sup> In response to commenters, the SEC sought to tailor the Rule and the Form to ease the reporting burden on private fund advisers without materially impacting the quality of information from a systemic risk monitoring perspective. Although the final Rule and Form reflect a number of important revisions, the page count for the Form remains virtually unchanged, tallying 42 pages, as compared to 44 in the proposed Form. However, as discussed below, certain changes to the instructions for particular items in new Form PF should reduce the burden felt by private fund advisers.

The appendix to this *DechertOnPoint* includes a chart that summarizes the types of private

<sup>1</sup> Pub. L. No. 111-203, 124 Stat. 1376 (2010).

<sup>2</sup> Final Rule, Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, 76 Fed. Reg. 71128 (Nov. 16, 2011) ("Adopting Release"). See also, Proposed Rule, Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, SEC Release No. IA-3145 (Jan. 25, 2011).

<sup>3</sup> The SEC and CFTC consulted extensively with the other member agencies of the FSOC in developing Form PF to tailor the information to what the FSOC requires to perform its responsibilities. SIFIs, which stands for "systemically important financial institutions," is the commonly used acronym for significant financial institutions. The Dodd-Frank Act and the rules proposed by the FSOC thereunder do not use this term, but refer only to "significant nonbank financial companies" and "significant bank holding companies."

<sup>4</sup> Adopting Release, *supra* note 2.

<sup>5</sup> For further information on the proposed rule, see *DechertOnPoint: CFTC and SEC Propose Private Fund Systemic Risk Reporting Rules*, available at [http://www.dechert.com/files/Publication/e589785f-cda6-4605-8e21-55629c8ee0e6/Presentation/PublicationAttachment/fbf1090c-78ed-4275-8b69-5dc08ac5ba76/FS\\_4\\_3-11\\_CFTC\\_and\\_SEC\\_Propose.pdf](http://www.dechert.com/files/Publication/e589785f-cda6-4605-8e21-55629c8ee0e6/Presentation/PublicationAttachment/fbf1090c-78ed-4275-8b69-5dc08ac5ba76/FS_4_3-11_CFTC_and_SEC_Propose.pdf) (March 2011).

funds for which reporting is required, describes each type of private fund and sets forth relevant asset thresholds and related reporting and updating obligations.

## Purpose of Form PF

The Dodd-Frank Act established the FSOC with the mission of monitoring, and responding to, systemic risks to the stability of financial markets in the United States. The Dodd-Frank Act also directs the FSOC to determine whether to designate particular non-bank financial companies as SIFIs to be regulated by the Board of Governors of the Federal Reserve System (“FRB”) and recommend to the FRB heightened prudential standards for SIFIs and large bank holding companies.<sup>6</sup> In furtherance of this goal, the Dodd-Frank Act directs the SEC to require certain investment advisers to “private funds” to file reports on the private funds they advise and share these reports with the FSOC to the extent the FSOC deems necessary in assessing the systemic risk posed by a private fund.<sup>7</sup> To that end, the SEC and the U.S. Commodity Futures Trading Commission (“CFTC”) designed Form PF, in consultation with the FSOC, to gather from registered advisers to private funds information necessary for the FSOC to fulfill its mandate.<sup>8</sup>

## FSOC’s Use of Information Collected on Form PF

The FSOC recently published a second proposed notice of rulemaking regarding its designation of SIFIs.<sup>9</sup> The notice includes proposed interpretative guidance discussing the standards the FSOC will apply in determining whether to evaluate a non-bank financial

<sup>6</sup> Sections 112 and 113 of the Dodd-Frank Act.

<sup>7</sup> Section 404 of the Dodd-Frank Act.

<sup>8</sup> As noted in the Adopting Release, “the policy judgments implicit in the information required to be reported on Form PF reflects FSOC’s role as the primary user of the reported information . . . [t]he SEC would not necessarily have required the same scope of reporting if the information reported on Form PF were intended solely for the SEC’s use.” Adopting Release, *supra* note 2, at 71129-30.

<sup>9</sup> Second Notice of Proposed Rulemaking and Proposed Interpretive Guidance, 76 Fed. Reg. 64264 (Oct. 18, 2011).

company for potential designation as a SIFI and what factors it will consider in making such an evaluation.<sup>10</sup>

Under the proposed guidance, a U.S. non-bank financial company would qualify for review for a potential SIFI designation if it has \$50 billion or more of global consolidated assets and satisfies one or more of five other quantitative factors, including having \$20 billion or more of outstanding loans borrowed and bonds issued or a leverage ratio exceeding 15:1 (“Stage 1 thresholds”).

The FSOC proposal notes that while it will apply the Stage 1 thresholds to all companies, including asset management companies, private equity firms and hedge funds, these companies may pose risks that are not well measured by the Stage 1 thresholds. The proposal also notes that currently there is generally less data available for private equity firms and hedge funds than for other companies. However, the FSOC observes that registered advisers to hedge funds and private equity funds will be required to file Form PF beginning in 2012 and that it will use such data as well as data from other sources to consider whether to establish an additional set of metrics or thresholds tailored to evaluate hedge funds and private equity funds and their advisers for possible designation as SIFIs.

## SEC’s Use of the Information Collected on Form PF

Although designed primarily to provide information to the FSOC, the SEC has indicated that it may use the information for both examination and enforcement purposes. For example, a senior SEC staff member has indicated that the SEC may analyze the performance data provided by registrants in Form PF to identify anomalies that may require further attention.

Moreover, since Form PF is an SEC filing, advisers should expect that during examinations the SEC staff will review the processes and procedures used by advisers in completing the Form. As a result, registered advisers should determine early on whether they are

<sup>10</sup> See *DechertOnPoint: FSOC Issues New Proposed SIFI Designation Rule*, available at [http://www.dechert.com/files/Publication/f69d0d19-47b2-485b-8a55-92b429109371/Presentation/PublicationAttachment/1834460b-bbcf-48bb-8694-981df0d77df3/FI\\_12\\_10-11\\_FSOC\\_Issues\\_New\\_Proposed\\_SIFI\\_Designation\\_Rule.pdf](http://www.dechert.com/files/Publication/f69d0d19-47b2-485b-8a55-92b429109371/Presentation/PublicationAttachment/1834460b-bbcf-48bb-8694-981df0d77df3/FI_12_10-11_FSOC_Issues_New_Proposed_SIFI_Designation_Rule.pdf).

subject to Form PF and consider whether it will be necessary for them to update their compliance program to reflect the requirements of Form PF. In addition, when advisers complete the new items in Schedule D of Form ADV as part of their next annual update, they will need to determine which of their accounts are private funds and which persons are the adviser's "related persons," and to reflect this determination in any Form PF reporting made by the adviser.

## Parallel CFTC Rule

The CFTC simultaneously adopted new Rule 4.27 under the Commodity Exchange Act ("CEA"), which requires private fund advisers registered with the SEC that are also registered with the CFTC as commodity pool operators or commodity trading advisors, to file Form PF with the SEC. CFTC Registrants that file Form PF with the SEC will be deemed to have filed Form PF with the CFTC for purposes of any enforcement action regarding material false or misleading statements in Form PF. The CFTC proposed additional reporting requirements that could be satisfied by filing Form PF,<sup>11</sup> but these reporting requirements have not been adopted, as of the date of this *DechertOnPoint*.

## International Coordination

The Dodd-Frank Act requires the FSOC to coordinate with foreign regulators in monitoring systemic risk. Therefore, the SEC staff consulted with the United Kingdom's Financial Services Authority ("FSA"), the European Securities and Markets Authority ("ESMA"), the International Organization of Securities Commissions and Hong Kong's Securities and Futures Commission, to develop a consistent regime for hedge fund reporting. The collection of comparable information regarding private funds in each regulator's jurisdiction will better allow for the coordinated assessment of systemic risk on a global basis. ESMA has published its advice on implementing these requirements.<sup>12</sup>

<sup>11</sup> See Commodity Pool Operators and Commodity Trading Advisors: Amendments to Compliance Obligations, 76 FR 7976 (Feb. 11, 2011), available at <http://www.cftc.gov/LawRegulation/FederalRegister/ProposedRules/2011-2437>.

<sup>12</sup> European Securities and Markets Authority, *Consultation paper – ESMA's draft technical advice to the European Commission on possible implementing measures of the Alternative Investment Fund Managers Directive*, ESMA/2011/379

Although the SEC staff did draw on ideas from the FSA's voluntary semi-annual survey of hedge funds and ESMA's draft guidance on the form of systemic risk reporting that may be required under the Alternative Investment Fund Managers Directive, ultimately the scope and frequency of the reporting and the data required to be reported on Form PF does differ from the reporting proposed by ESMA in its recently published advice. The differences in these systemic risk reporting regimes will present challenges for managers and funds that are subject to both sets of reporting requirements.<sup>13</sup>

## Two-Tier Reporting Requirement

As was the case in the proposed rule, Form PF provides for a two-tier reporting requirement, whereby "large" advisers to particular types of funds will be subject to a more detailed reporting requirement than are smaller advisers and large advisers to other types of funds.<sup>14</sup>

Advisers to hedge funds having, in the aggregate, at least \$1.5 billion in "regulatory assets under management" ("RAUM") in hedge funds will be subject to the more detailed reporting requirements.<sup>15</sup> This threshold was increased from \$1 billion in RAUM in the proposing release. RAUM consists of the assets of the applicable funds managed by an adviser and is calculated gross of outstanding indebtedness and other accrued but unpaid liabilities. RAUM also includes uncalled capital

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(Nov. 2011), available at [http://www.esma.europa.eu/index.php?page=document\\_details&from\\_title=Documents&id=8059](http://www.esma.europa.eu/index.php?page=document_details&from_title=Documents&id=8059).

<sup>13</sup> A *DechertOnPoint* is forthcoming that compares the U.S. and ESMA risk reporting regimes.

<sup>14</sup> As noted below, the largest fund managers are also subject to accelerated initial filing dates for Form PF.

<sup>15</sup> Form PF defines "hedge fund" generally to include any private fund having any one of three common characteristics of a hedge fund: (i) a performance fee that takes into account market value (instead of only realized gains); (ii) high leverage; or (iii) short selling. This definition excludes private equity funds that satisfy clause (i) by calculating currently payable performance fees in a way that takes into account unrealized gains solely for the purpose of reducing such fees to reflect net unrealized losses. It also excludes funds that use short selling solely to hedge currency exposure or to manage duration. Lastly, it excludes vehicles established for the purpose of issuing asset-backed securities. A commodity pool that is required to be reported on Form PF is treated as a hedge fund for such purpose.

commitments. Advisers may use the total assets on the fund's balance sheet to determine gross assets.<sup>16</sup> This calculation methodology is the same as that used for determining RAUM for purposes of Form ADV. Advisers to private funds with less than \$150 million in RAUM need not file Form PF.

Advisers to liquidity funds having, in the aggregate, at least \$1 billion in RAUM in liquidity funds and money market funds will be subject to the more detailed reporting requirements.<sup>17</sup> With respect to liquidity fund advisers, such advisers must count registered money market fund assets towards the RAUM threshold.

Advisers to private equity funds having, in the aggregate, at least \$2 billion in RAUM in private equity funds will be subject to the more detailed reporting requirements.<sup>18</sup> This represents an increase from the \$1 billion threshold in the proposing release and means that fewer private equity fund advisers will need to file the more detailed portion of Form PF relating to private equity funds.

## Aggregation of Assets

For purposes of determining whether an adviser meets any of the asset thresholds described above, an adviser must aggregate assets of accounts that pursue substantially the same investment objective and strategy and invest side by side in substantially the same positions as the private funds managed by the adviser ("Parallel Accounts"), unless the value of the Parallel Accounts exceeds the value of the private funds. This provides significant relief to advisers that are not primarily private fund advisers.

<sup>16</sup> Rules Implementing Amendments to the Investment Advisers Act of 1940, SEC Release No. IA-3221, n.83 (June 22, 2011).

<sup>17</sup> A "liquidity fund" is defined in Form PF as any private fund that seeks to generate income by investing in a portfolio of short term-obligations in order to maintain a stable net asset value per unit or minimize principal volatility for investors. Essentially, a liquidity fund is an unregistered money market fund.

<sup>18</sup> A "private equity fund" is defined in Form PF as any private fund that is not a hedge fund, liquidity fund, real estate fund, securitized asset fund or venture capital fund and does not provide investors with redemption rights in the ordinary course.

Further, an adviser must aggregate assets of persons advised by any "related person" that is not operated separately from the adviser. This would exclude as a related person any person that is not required to be listed on Item 7.A of Schedule D of the adviser's Form ADV in instances where the adviser: (i) has no business dealings with the related person in connection with advisory services the adviser provides to its clients; (ii) does not conduct shared operations with the related person; (iii) does not refer clients or business to the related person and the related person does not refer prospective clients or business to the adviser; (iv) does not share supervised persons or premises with the related person; and (v) has no reason to believe that its relationship with the related person otherwise creates a conflict of interest with the adviser's clients.<sup>19</sup>

An adviser may, but is not required to, report the private fund assets that it manages and the private fund assets that its related persons manage, on a single Form PF. This allows advisers with integrated risk management systems to provide a single report.

## Frequency of Reporting

Large hedge fund advisers and large liquidity fund advisers must complete and file Form PF quarterly. All other qualifying private fund advisers, including large private equity fund advisers and small advisers, must file Form PF once per fiscal year.<sup>20</sup>

In response to numerous commenters' descriptions of the difficulties that large hedge fund and private equity fund advisers would face in responding accurately within the proposed 15-day filing deadline, the SEC extended the deadline for filing Form PF following each reporting period, except for large liquidity fund advisers. Large private equity fund advisers, smaller hedge fund advisers and other private fund advisers must file Form PF within 120 days of the end of each fiscal year. Large hedge fund advisers have 60 days to file Form PF following each fiscal quarter, while large liquidity fund advisers must file Form PF within 15 days of the end of

<sup>19</sup> See Instructions to Item 7.A of Form ADV.

<sup>20</sup> Advisers may intermittently re-file Form PF to correct errors in previous filings or because they manage private funds in various categories with different filing requirements. However, filers are not required to revise information that they believed in good faith was correct at the time of filing, even if such information has been revised for other purposes, following the filing.

each fiscal quarter. Advisers that must file on a quarterly basis with respect to certain accounts need not file quarterly with respect to all their accounts. For example, if a large hedge fund adviser also manages private equity funds with less than \$2 billion in RAUM, the adviser may file Form PF annually with respect to its private equity accounts, while filing quarterly with respect to its hedge fund accounts.

## Liability for the Information Filed

The final rule revised the proposal in two significant ways in order to lessen the potential for liability for the information filed. First, the final Form does not contain the proposed certification requiring an authorized individual from the adviser to affirm under penalty of perjury that the statements made in the Form PF are true and correct. Commenters expressed concern that the estimates and judgment calls required by Form PF would not allow an officer to state with certainty that the Form is true and correct, and officers could not rightly be held liable for perjury in such circumstances. Advisers can still be held liable under the Advisers Act for willful misstatements or omissions of a material fact in any report filed with the SEC. While there is no obligation to provide Form PF data to investors, to the extent the information is provided to investors the usual standards for potential liability would apply.

The final rule allows advisers to use their internal methodologies when calculating the data required by Form PF, rather than detailed formulas prescribed by the SEC in the proposed Form. The instructions to Form PF clarify that advisers may use methodologies that they use for internal and investor reporting purposes. Further, Form PF permits, but does not require, an adviser to explain any assumptions it makes in responding to the Form's questions. Given the opportunity, it could prove useful to an adviser to explain its assumptions in order to demonstrate its good faith in completing the Form, particularly if the SEC or CFTC staff disagrees with the data reported on the Form.

## Confidentiality

The CFTC and SEC will share information collected on Form PF with the FSOC to the extent requested by the FSOC in furtherance of its assessment and monitoring of systemic risk. Under amendments to the Advisers Act added by the Dodd-Frank Act, the CFTC, SEC and FSOC may be compelled to reveal any information

provided on Form PF, but only under very limited circumstances.<sup>21</sup> For example, upon proper request, Form PF data may be shared with other federal departments or agencies or with self-regulatory organizations, in addition to the CFTC and FSOC, for purposes within the scope of their jurisdiction. However, such agencies may not be compelled, under the Freedom of Information Act, to disclose to the public information reported on Form PF. Information may also be shared with Congress, but only in accordance with a confidentiality agreement.<sup>22</sup> Form PF information may be used in examinations as well as enforcement actions brought by the United States or the SEC. In connection with an enforcement action, relevant information derived from or included in an adviser's Form PF could be made public. The SEC is working to design controls and systems to protect the confidentiality of the information contained in Form PF.<sup>23</sup> If the SEC staff does not believe that such systems are adequate by the compliance date for required Form PF filings, the SEC will consider delaying the compliance date.

## Compliance Date

The SEC adopted a two-stage phase-in period for compliance with the Form PF filing requirements. Advisers with at least \$5 billion in RAUM attributable to hedge funds, liquidity funds or private equity funds as of the last day of the fiscal quarter most recently completed prior to June 15, 2012 must begin filing for periods on or after June 15, 2012. Advisers who do not meet that threshold must begin filing for periods on or after December 15, 2012. Most hedge fund advisers

<sup>21</sup> See Section 204(b) of the Advisers Act.

<sup>22</sup> The August 2011 leak by Senator Bernie Sanders to the Wall Street Journal of confidential information reported to the CFTC could call into question the effectiveness of confidentiality provisions when data is provided to Congress. Senator Sanders released information contained in routine reports to the CFTC by participants in the commodities markets regarding their positions. This information is reported with the understanding that it will remain confidential.

<sup>23</sup> In October of 2011, an unidentified entity gained access to confidential reports of SEC personnel regarding their securities holdings and transactions. Natasha Singer, *It Guards the Markets, but What About Itself?*, N.Y. TIMES, October 22, 2011, available at: <http://www.nytimes.com/2011/10/23/business/at-the-sec-questions-about-its-own-privacy-controls.html?scp=8&sq=securities+and+exchange+commission%2C+securities+holdings&st=nyt>.

with greater than \$5 billion in RAUM must make their initial Form PF filing by August 29, 2012, and most liquidity fund managers with relevant assets under management in excess of \$5 billion must begin filing on July 15, 2012.<sup>24</sup> All other advisers must file their first Form PF for the first period ending after December 15, 2012. For most other filers (including all private equity fund advisers with a fiscal year ending December 31), this means that their first Form PF will be due on April 30, 2013, using data as of December 31, 2012.<sup>25</sup>

These dates represent a significant delay of the effective dates from the proposed effective date of December 31, 2011. The filing dates were delayed in order to allow advisers greater time to prepare for the filing and in recognition of the fact that the Form was adopted later than expected. In preparation for the filing, an adviser should: (i) identify the funds that qualify as private funds for purposes of Form PF and identify the type of each such fund (e.g., hedge fund, liquidity fund); (ii) identify the information to be included in the Form for each covered private fund; (iii) develop the automated systems necessary to collect, create or aggregate the data required by the Form; and (iv) conduct diligence on any outside service providers the adviser hires to aid in the preparation of the filing. The SEC is requiring larger advisers to file earlier under the assumption that larger advisers have the resources to prepare the filing in a shorter time frame.

## How to Prepare

Advisers should start now to determine if they have the information needed to complete Form PF. Much of the information relates to risk management, and those systems will vary among advisers. Moreover, much of the information will need to be aggregated at the adviser level, which many advisers do not currently do for risk management purposes. In addition, some information relates to the nature of the investors in private funds managed by an adviser. The categories required by Form PF do not correspond to the existing categories used for SEC private placement purposes. Although advisers may obtain some of this data through their current subscription agreements and through anti-money laundering checks, it may be difficult and costly to obtain necessary information. While the Form

provides some relief with respect to investors who acquired an interest in the fund prior to March 31, 2012, going forward, advisers will be expected to have this data. As a result, many advisers should consider amending their subscription documentation now to obtain this information (as well as the information required by Form ADV).

## Conclusion

The final Form PF incorporates many significant revisions that should ease the burden on reporting advisers. The SEC staff clearly considered the comments it received and implemented suggestions such as increasing the threshold for advisers subject to the detailed reporting requirements, delaying the compliance date for the rule, increasing the amount of time after the end of the fiscal period for filing, eliminating the certification under penalty of perjury and allowing advisers to use their internal methods for calculating the information required by Form PF. These revisions allowed Form PF to be unanimously adopted by the SEC, which praised the SEC staff's efforts to reduce the reporting burden while still gathering the information required by the FSOC.



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<sup>24</sup> These dates assume a fiscal year end of December 31.

<sup>25</sup> These dates assume a fiscal year end of December 31.

## Summary of Form PF Filing Requirements

Type of "Private Fund" <sup>26</sup> Managed	Definition	Asset Thresholds	Filing Deadlines <sup>27</sup>	Required Section(s) of Form PF
"Hedge Fund"	<p>A private fund (other than a securitized asset fund) having any one of three common characteristics of a hedge fund: (a) a performance fee that takes into account market value (instead of only realized gains); (b) high leverage; or (c) short selling, other than for purposes of hedging currency or managing duration.</p> <p>Also, any commodity pool, even if not required to rely on Section 3(c)(1) or 3(c)(7).</p>	\$5B or more in relevant assets <sup>28</sup>	<p><u>Quarterly</u> within <u>60 days</u> after end of fiscal quarter.</p> <p>Initial filing due for first fiscal quarter ending on or after 6/15/2012.</p> <p>(For most advisers, 8/29/2012, with a fiscal quarter ending 6/30/2012).<sup>29</sup></p>	<p>1a (aggregate data)</p> <p>1b and 1c (fund by fund data)</p>
		At least \$1.5B but less than \$5B in relevant assets	<p><u>Quarterly</u> within <u>60 days</u> after end of fiscal quarter.</p> <p>Initial filing due for first fiscal quarter ending on or after 12/15/2012.</p> <p>(For most advisers, 3/1/2013, with a fiscal year ending 12/31/2012).</p>	<p>2a (aggregate data)</p> <p>2b (fund by fund data)</p>
		At least \$150M but less than \$1.5B in relevant assets	<p><u>Annually</u> within <u>120 days</u> after end of fiscal year.</p> <p>Initial filing due for first fiscal year ending on or after 12/15/2012.</p> <p>(For most advisers, 4/30/2013, with a fiscal year ending 12/31/2012).</p>	<p>1a (aggregate data)</p> <p>1b and 1c (fund by fund data)</p>

<sup>26</sup> A "Private Fund" is any issuer that must rely on Section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940.

<sup>27</sup> The asset threshold for quarterly filings (*i.e.*, \$1.5B for hedge funds or \$1B for liquidity funds) is measured as of the last day of each month within the fiscal quarter and quarterly filings are required if the threshold is exceeded on any measurement date. Where filings are required on a quarterly basis (*i.e.*, larger hedge fund and liquidity fund managers), the 1st, 2nd and 3rd quarter filings are "updates" in which the adviser needs only to update information that relates to particular funds, while the initial and subsequent 4th quarter filings require updating the entire form. Additionally, when an adviser manages more than one type of fund, the adviser must file an update based on the shortest deadline, but is required at that time only to update those items related to the relevant type of fund (*e.g.*, a larger liquidity fund manager that also advises hedge funds and private equity funds must file a fourth quarter update within 15 days after fiscal year end for items related to liquidity funds but can file an amendment related to the hedge funds within 60 days after fiscal year end and then a subsequent update related to the private equity funds (or other types of private funds) within 120 days after fiscal year end). When filing a subsequent update of this type, the adviser is not required to alter or update information previously filed for the quarter.

<sup>28</sup> For hedge funds, "relevant assets" means AUM attributable to hedge funds, taking into account aggregation principles for parallel accounts and affiliates.

<sup>29</sup> As noted in the adopting release for Form PF, the overwhelming majority of advisers that will report on Form PF have 12/31 fiscal year ends.

Type of "Private Fund" <sup>26</sup> Managed	Definition	Asset Thresholds	Filing Deadlines <sup>27</sup>	Required Section(s) of Form PF
"Liquidity Fund"	A <i>private fund</i> that seeks to generate income through investment in short term obligations in order to maintain a stable NAV or minimize principal volatility. Essentially, an unregistered money market fund.	\$5B or more in <i>relevant assets</i> <sup>30</sup>	<u>Quarterly</u> within <u>15 days</u> after end of fiscal quarter. Initial filing due for first fiscal quarter ending on or after 6/15/2012. (For most advisers, 7/15/2012).	1a (aggregate data) 1b (fund by fund data)
		At least \$1B but less than \$5B in <i>relevant assets</i>	<u>Quarterly</u> within <u>15 days</u> after end of fiscal quarter. Initial filing due for first fiscal quarter ending on or after 12/15/2012. (For most advisers, 1/15/2013).	3 (fund by fund data)
		At least \$150M but less than \$1B in <i>relevant assets</i>	<u>Annually</u> within <u>120 days</u> after end of fiscal year. Initial filing due for first fiscal year ending on or after 12/15/2012. (For most advisers, 1/15/2013).	1a (aggregate data) 1b (fund by fund data)
"Private Equity Fund"	A <i>private fund</i> that is not a <i>hedge fund</i> , <i>liquidity fund</i> , <i>real estate fund</i> , <i>securitized asset fund</i> or <i>venture capital fund</i> and does not provide investors with redemption rights in the ordinary course. <sup>31</sup>	\$5B or more in <i>relevant assets</i> <sup>32</sup>	<u>Annually</u> within <u>120 days</u> after end of fiscal year. Initial filing due for first fiscal year ending on or after 6/15/2012. (For most advisers, 4/30/2013). Thus, the accelerated filing for these private equity fund managers impacts only those with June, July, August, September, October or November fiscal years.	1a (aggregate data) 1b (fund by fund data) 4 (fund by fund data)
		At least \$2B but less than \$5B in <i>relevant assets</i>	<u>Annually</u> within <u>120 days</u> after end of fiscal year.	
		At least \$150M but less than \$2B in <i>relevant assets</i>	Initial filing due for first fiscal year ending on or after 12/15/2012. (For most advisers, 4/30/2013).	1a (aggregate data) 1b (fund by fund data)

<sup>30</sup> For liquidity funds, "relevant assets" means AUM attributable to liquidity funds and registered money market funds, taking into account aggregation principles for parallel accounts and affiliates.

<sup>31</sup> As there is no requirement that a private equity fund make "equity" investments so other types of funds that are not commonly referred to as private equity (e.g., "mezzanine funds"), often will fall into this category.

<sup>32</sup> For private equity funds, relevant assets means AUM attributable to private equity funds, taking into account aggregation principles for parallel accounts and affiliates.



Type of "Private Fund" <sup>26</sup> Managed	Definition	Asset Thresholds	Filing Deadlines <sup>27</sup>	Required Section(s) of Form PF
<b>Other Types of Private Funds:</b>	Any private fund that is not a hedge fund, liquidity fund or private equity fund. Including:	At least \$150M in relevant assets <sup>33</sup>	Annually within <u>120 days</u> after end of fiscal year. Initial filing due for first fiscal year ending on or after 12/15/2012. (For most advisers, 4/30/2013).	1a (aggregate data) 1b (fund by fund data)
<b>"Real Estate Fund"</b>	A private fund that is not a hedge fund, does not provide redemption rights in the ordinary course and that invests primarily in real estate and real estate related assets.			
<b>"Securitized Assets Fund"</b>	A private fund whose primary purpose is to issue asset backed securities and whose investors are primarily debt-holders.			
<b>"Venture Capital Fund"</b>	Any private fund which represents that it is a venture capital fund; invests only in equity securities and acquired at least 80% of such securities directly from the issuer; uses less than 15% leverage that must be short-term; provides investors with no withdrawal rights except in extraordinary circumstances and is not registered under the Investment Company Act of 1940. Rule 203(l)-1 under the Investment Advisers Act of 1940 provides the definition of a venture capital fund.			
<b>"Other Private Fund"</b>	A private fund that is not a hedge fund, liquidity fund, private equity fund, real estate fund, securitized asset fund or venture capital fund.			

<sup>33</sup> For other private funds, relevant assets means AUM attributable to private funds of all types, taking into account aggregation principles for parallel accounts and affiliates.

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