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Via e-mail to: rule-comments@sec.gov

U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090
Attention: Elizabeth M. Murphy, Secretary

Re: File No. DF Title IV Exemptions -- Definition of Venture Capital Fund

This letter is submitted by Private Equity Investors, Inc. and Willowridge Partners, Inc., two firms that manage investment funds that indirectly invest in venture capital funds and in venture capital companies. Both firms are substantially venture capital investors via purchases of interests in venture limited partnership funds and securities in venture-backed companies on a secondary basis from existing investors. We are writing in anticipation of rulemaking under Section 407 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") which was signed into law on July 21, 2010. We appreciate the decision by the U.S. Securities and Exchange Commission ("SEC") to seek input on the implications of the Dodd-Frank Act and the formulation of rules mandated by the legislation.

Discussion

Definition of "Venture Capital Fund"

Section 407 of the Dodd-Frank Act requires the SEC to issue rules defining "venture capital fund." We wish to urge the SEC in exercising this mandate to take a considered approach that measures carefully the current state of the venture capital industry, as well as the importance of venture capital to the US economy and competitiveness. We believe that the Congressional intent behind Section 407 is based on complementary rationales: (1) advisers to venture funds did not require the same kind of regulation as the SEC is required to adopt for other private fund managers; and (2) venture capital investing is a critical stimulant to the U.S. economy and should not be burdened by unnecessary regulation.[1]

To this end, we suggest an approach to defining "venture capital fund" that fully comprehends indirect methods of venture investing through secondary purchases. Institutional

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[1] We believe that the number of firms in the venture capital industry is approximately 1,100. Thus, the exemption that Congress intended is for a limited class, i.e. those firms that are investing, directly or indirectly, in venture capital companies.

investors, such as pension funds, endowments and foundations, benefit from the ability to access liquidity in various forms of alternative investing, including venture capital investing. Direct investments for such investors, however, are rarely feasible and often too expensive. The primary means of investing in venture capital for an institutional investor is through a venture fund. The opportunity for institutional investors to make venture capital investments through funds has encouraged their increased commitment to that asset class and in turn served as a powerful entrepreneurial and job creation force in our economy.

One requirement in venture investing by institutional investors, particularly state pension funds, however, is the ability to exit their investment, often as a matter of state legislation or fiduciary standards. Venture capital is a long-term asset class. Unlike hedge funds which have quarterly or annual liquidity for their investors, venture capital funds and their investors must be prepared to wait as long as 10 to 15 years for investments to mature. Institutional investors often cannot wait that long. This is where secondary funds come into play. The secondary industry provides institutional investors with a means to get liquidity via selling their investment interests. This has been particularly true during the recent economic crisis, when liquidity has been of increased importance. Some of the most sophisticated investors, such as Harvard University, CalPERS and others, have had to use the secondary industry to generate cash in times of economic crisis. Thus, it is important to have indirect investors in venture capital which provide liquidity to an otherwise illiquid market.

In coming up with a proposed definition of venture capital fund for the purposes of Section 407, we believe that the membership criteria of the National Venture Capital Association ("NVCA") has direct relevance. Based on that, we propose that in developing a definition of "venture capital fund" for purposes of Section 407 of the Dodd-Frank Act, the SEC consider the following concepts:

- A venture capital fund ("VCF") should be actively engaged in investing on a cash-for-equity or cash-for-limited partnership interest basis from a dedicated pool of capital that has been allocated for the purpose of substantially investing in venture capital investments.
- A VCF should have at least $50 million under management for the sole purpose of venture capital investing. Such investing should be in companies which are, on average, growing companies, with low debt and with syndicates of one or more firms that are similar in type to VCFs.
- A VCF should certify initially and later on a periodic cycle (such as, every three years) that it
    - has over 50 percent of its investments in direct investments in venture capital portfolio companies and/or limited partnership interests in funds investing in venture capital portfolio companies;
    - employs a professional staff to do direct venture capital investing; and
    - uses a professional approach before and after it makes an investment, including the maintenance of a continued interest in the companies it sponsors.

We strongly recommend that the SEC work closely with venture capital organizations and trade groups, such as the NVCA. These organizations, both through their membership criteria and in connection with the support they provide their members, have current data on the size and characteristics of the venture capital asset class. These organizations also have relevant information on the importance of venture capital to the overall economy.

The Importance of Venture Capital

In passing the Dodd-Frank Act, Congress specifically exempted advisors to venture capital funds from registering with the SEC. In doing so, Congress implicitly recognized that private companies funded by venture capital since 1971 are a key driving engine of job creation. These companies currently provide close to 11 percent of the private sector employment, or 12.1 million jobs out of 115 million jobs. Additionally, revenue from venture-backed companies is now $2.9 trillion annually, representing 21 percent of U.S. Gross Domestic Product.[2] The venture capital industry has been responsible for such companies as Federal Express, Apple, Google, Facebook, Microsoft, to name a few.

Advisors to Venture Capital Funds Do Not Require SEC Regulation

Congress has determined that advisors to venture capital funds are exempt from registration. By their nature, advisors to venture capital funds do not require the same kind of regulation as may pertain to advisors to hedge and private equity funds. Venture capital firms, by strategy, maintain relatively little exposure to public markets. In addition, venture companies are not substantially debt leveraged and thus do not impact the banking and credit markets. Further, since venture capital firms are invested primarily in private securities, they have very limited instances of trading and pose little, if any, potential systemic risk to the economic system because of the general absence of leverage. The same is even more true for those funds that invest indirectly in venture capital funds and venture capital companies, via secondary purchases or primary commitments to venture capital funds. Such advisors and their venture capital funds generally have no issues involving personal trading, insider trading procedures or trade aggregation protocols. Similarly, having a chief compliance officer to enforce procedures that are not applicable to venture capital firms is unnecessary, provides little utility and would result in a financial burden and an impediment to the main task of providing growth financing to entrepreneurial businesses which will result in substantial job creation for the economy.

Should the SEC choose to require audited financial reports, indirect investors with investments in venture funds typically require until September 15th to complete a GAAP-based external audit. Audited financial information from many underlying funds is not received until late in the second calendar quarter, and often late into the third quarter. The Internal Revenue Service has recognized this fact and does not require partnerships to file Form 1065 and the Schedules K-1 until September 15th each year.

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[2] The Economic Importance of Venture Capital-Backed Companies to the U.S. Economy. 2009. National Venture Capital Association.

Conclusion

In closing, since it has already been determined that advisors to "venture capital funds" are exempt from registration under the Dodd-Frank Act, we would like to suggest that the working definition of "venture capital fund" acknowledge and reflect the fact that funding of venture companies is accomplished indirectly, as well as, directly. As such, when you consider funds which provide capital to venture companies, there should be no distinction made based on the manner of that investment, whether direct or indirect, in the final definition of "venture capital funds."

We appreciate the opportunity to share our preliminary views on the direction the SEC should take in crafting a definition for "venture capital fund" under the Dodd-Frank Act and look forward to providing further views once the SEC has developed proposed rules. In the meantime, please do not hesitate to contact either of us if you have questions.

Sincerely,

Private Equity Investors, Inc.

By:

Chuck Stetson, Managing Director

Willowridge Partners, Inc.

By:

Jerrold Newman, Founder