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September 23, 2019

Ms. Vanessa A. Countryman
Acting Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

RE: Concept Release on Harmonization of Securities Offering Exemptions; File No. S7-08-19.

Dear Ms. Countryman:

The Hedge Fund Association ("HFA") respectfully submits these comments in response to the U.S. Securities and Exchange Commission's ("SEC" or "Commission") request for comments regarding its Concept Release on Harmonization of Securities Offering Exemptions (the "Release"). The HFA is an international non-profit industry trade group and nonpartisan lobbying organization established to serve the hedge fund industry. We are devoted to advancing transparency, development and trust in alternative investments. Our global presence spans five continents and over sixteen countries. HFA members include hedge fund sponsors, financial institutions, funds of hedge funds, family offices, public and private pension funds, endowments and foundations, high net worth individuals, allocators, and service providers including prime brokers, accounting firms, administrators, custodians, auditors, lawyers, risk managers, technologists and third party marketers.

We applaud the Commission's efforts to harmonize the many rules and regulations exempting securities offering from registration under the Securities Act of 1933, as amended ("Securities Act"). While these exemptions generally and positively affect the hedge fund industry, we do appreciate the opportunity to comment on the Release and identify gaps in the exemption framework so that smaller issuers can broaden the investor base when raising capital in the United States. The various tables in the Release describing capital privately raised capital, especially Table 2, clearly demonstrate the vital nature of the task, its importance and its complexity. To ease the role of coordinating what is likely to be numerous comments to this extensive Release, we are confining our comments to Sections IIA and IIB of the Release, with reference to IIIB1.

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Changes Relating to Rule 506(b)

For our HFA members, changes to any application of the private placement regime under SEC regulation, and in particular Rules 506(b) and 506(c), would have significant effect on their ability to raise capital. As is repeated in Section IIA of the Release, the two well known primary qualifiers for natural persons to meet the definition of an "accredited investor" are:

1. Income exceeds $200,000 in each of the two most recent years (or $300,000 in joint income with the person's spouse); or

2. Net worth exceeds $1 million (individually or jointly with spouse), excluding the value of their primary residence.

Directors, executive officers, and general partners and managing members of a hedge fund issuer are accredited investors, as well, as are certain enumerated entities with over $5 million in assets. We are not recommending any change to these provisions – they are well understood and work well for our members and other issuers, as demonstrated in the provided in Table 2.

Knowledgeable Investors with Substantial Industry Experience

The change we suggest relates to a member of an investor pool that knows and has experience with regard to the industry which is the basis of the offering. Like the recommendation made by the Advisory Committee on Small and Emerging Companies in July 2016 in response to the Accredited Investor Staff Report, we also support and propose an expansion of the pool of accredited investors to include individuals who have passed examinations (or have otherwise demonstrated through some reasonable process) their knowledge and understanding of the industry being the subject matter of the offering even if they are not otherwise "accredited investors" under the financial tests. We would refer to these persons as "Knowledgeable Investors."

The current financial thresholds in the accredited investor definition are intended to provide a demarcation for those persons whose *financial sophistication* and ability to sustain the risk of loss of investment render the protections of the Securities Act registration process unnecessary. The new classification that we suggest -- "Knowledgeable Investors" -- ought to (in our view) satisfy the notion of "sophistication" by reasonably demonstrating the requisite skill, experience and significant understanding of the *business, industry or subject matter* of the particular offering such that it becomes a reasonable substitute for net worth, income or general financial sophistication (hereafter referred to as "substantial industry experience").

Certainly, if meeting the net worth thresholds qualifies an investor to meet the sophistication requirement necessary to be an accredited investor, then substantial industry experience must qualify a person as well.

Finally, we suggest that the burden of reasonably determining whether the evidence of substantial industry experience provided by the prospective investor is sufficient be placed on the issuer, who we would expect to seek detailed information and an attestation from the investor.

35 Non-Accredited Investors

The HFA also recommends eliminating the 35 non-accredited investor ceiling because we feel it is arbitrary and arguably unnecessary. Currently, even "non accredited" investors need to be sophisticated. To us, if all of such non-accredited investors are sophisticated, then number of such investors is immaterial – whether it is 34, 35 or 50, etc. Also, if the Commission were to adopt the HFA's recommendation, and the recommendation of numerous other organizations and government agencies, regarding Knowledgeable Investors, then the 35 non-accredited limitation would certainly prove unnecessary.

Impact on Other Provisions of the Securities Laws

We are mindful of the impact that these changes to the accredited investor standard would have on other federal and state securities laws. For that reason, the HFA is reluctant to suggest further changes to the "accredited investor" definition, especially with respect to the dollar thresholds. The HFA would recommend, however, the "substantial industry experience" standard for Knowledgeable Investors should be also be applied to:

1. The definition of a "qualified client" in Rule 205-3 of the Investment Advisers Act of 1940, as amended; and

2. The definition of a "qualified purchaser" in Section 3(a)(51) of the Investment Company Act of 1940, as amended ("Investment Company Act"), as it applies to the exceptions from the definition of an "investment company" provided in the Investment Company Act, including without limitation Sections 3(c)1 and 3(c)7 thereof.

Changes Relating to Rule 506(c)

As noted in the Release, Rule 506(c) of Regulation D permits issuers to broadly solicit and generally advertise an offering provided that (a) all purchasers in the offering are accredited investors; (b) the issuer takes reasonable steps to verify purchasers' accredited investor status; and (c) certain other conditions in Regulation D are satisfied, such as the 'bad actor' requirements of Rule 506(d). We support Rule 506(c) and we foresee that it will be more readily used by our members as it becomes more understood by them and their respective advisors.

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Thank you for your consideration of the recommendations of the HFA. We look forward to working the Commission on further steps towards harmonization of the securities exemptions. If you have any questions about the suggestions provided in this letter or the HFA, we would be happy to respond or meet with you.

Sincerely,

Michael Tannenbaum

HFA Regulatory & Government Chair

Mitch Ackles

HFA President