February 15, 2008

INVESTMENT FUNDS ALERT

REGULATORY FILINGS AND GENERAL DOCUMENT UPDATE REQUIREMENTS

As the new year begins, we encourage our investment management clients to consider regulatory filings and document update requirements that may be applicable to their operations. Below you will find information concerning a few areas that may need your attention.

U.S. SECURITIES FILINGS

Listed below are regulatory filings that your firm may be required to file in the United States. You should also review similar types of filing requirements in all foreign jurisdictions in which you have business operations or conduct investment activities.

Schedules 13D and 13G

The preparation and filing of Schedules 13D and 13G with the United States Securities and Exchange Commission (SEC) should be on your mind if you exercise investment discretion or voting power over more than 5 percent of the outstanding equity securities of U.S. publicly-traded issuers. If you have reached the 5 percent threshold please contact us to assist you in determining your filing obligations.

Rule 13d-2 of the Securities Exchange Act of 1934, as amended (Exchange Act), provides that Schedule 13D must be amended promptly after any material change (e.g., a 1 percent or more change in ownership or a change in investment intent) occurs in the facts set forth in the previously filed schedule. Rule 13d-2 also provides that a person filing a Schedule 13G must amend the schedule within 45 days after the end of each calendar year if, as of the end of the calendar year, there are any changes in the previously reported information. With respect to Schedule 13G, an amendment need not be filed if no change has occurred or if the only difference is caused by a change in the aggregate number of securities outstanding. Once an amendment has been filed reflecting beneficial ownership of less than 5 percent of a class of equity securities, no additional filings are required unless and until the reporting person again exceeds 5 percent beneficial ownership of the class of equity securities. This year's Schedule 13G filings must be made by February 14, 2008.

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Schedule 13F

If your firm had investment discretion over $100 million or more (by fair market value) of equity securities that are listed on the official list of 13F securities published by the SEC at http://www.sec.gov/divisions/investment/13flists.htm (13F Securities), as of the last day of any calendar month during 2007, then your firm is required to file four quarterly reports showing all long positions in such 13F Securities as of December 31, 2007, and as of the close of the first three quarters of 2008. In determining whether your firm had discretion over $100 million or more of 13F Securities, the firm should aggregate each fund and other securities portfolios and accounts over which it exercises investment discretion excluding securities issued by a person that the firm "controls." The report must be filed within 45 days after the relevant reporting date.

Section 16

In addition, you and/or your firm may be subject to Section 16 of the Exchange Act and may be required to file reports on Forms 3, 4 or 5 if you hold beneficial ownership of more than 10 percent of any class of equity securities of U.S. publicly-traded issuers or if you are an officer or director of the same. Please contact us for assistance in determining whether you and/or your firm have such a filing obligation.

Form 144

On November 15, 2007, the SEC approved major changes to Rule 144 that will take effect on February 15, 2008. Among other changes, the amendments to Rule 144 eliminate Form 144 filing requirements for non-affiliates[1] of an issuer and raise the filing thresholds for affiliates. Under the amended rule, if your firm is an affiliate of an issuer and, in reliance on Rule 144, intends to sell more than 5,000 shares of the issuer or an aggregate dollar amount greater than $50,000 in any three-month period, then your firm is required to file a Form 144 notice with the SEC at the time you place your order. Failure to timely file Form 144 may prevent your firm from relying upon the safe harbor. Please contact us for assistance in determining whether you and/or your firm have such a filing obligation.

BLUE SKY FILING REQUIREMENTS

If you have offered or sold interests in any funds or pooled investment vehicles, you should consider whether you have any "Blue Sky" filing obligations. Pursuant to Rule 506 of Regulation D under the Securities Act of 1933, as amended, it is necessary to file a Form D with the SEC and, pursuant to applicable state laws, you must make Blue Sky filings in most jurisdictions in which you sell limited partnership interests. The Blue Sky filing deadline is generally 15 days after the date of the first sale of interests in any particular jurisdiction (with a few limited exceptions such as New York and Idaho which may require pre-sale filings). State Blue Sky filings consist of a Form D and some combination of a Form U-2, a copy of the private placement memorandum and a check for the filing fee. New York requires an additional disclosure document called a Form 99. Please note that a few jurisdictions have no Blue Sky filing requirements or exemptions from Blue Sky filing requirements for certain categories of investors.

You should be aware that pursuant to Rule 507 of Regulation D, in the event that the SEC were to take action against a fund for failure to timely file Form D, one possible result could be ineligibility for use of Regulation D in the future. In addition, an increasing number of states now impose monetary fines for late filings.

[1] Rule 144(a)(1) defines an "affiliate" of an issuer as a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such issuer.

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FORM ADV UPDATES

SEC registered investment advisers are required to file updates to their Form ADV (Parts I and II) with the SEC and with individual state regulators, if applicable. Information that must be updated relates, among other things, to assets

under management, number of clients and potential conflicts of interest. Updates are generally due electronically on the SEC's Investment Adviser Registration Depository (IARD) system within 90 days of the adviser's fiscal year end. In addition Form ADV Part II must be updated periodically to remain current, retained in the adviser's records and made available to its clients on an annual basis.

PRIVACY POLICY UPDATE

Investment advisers, whether registered or not, are subject to SEC and Federal Trade Commission regulations governing the privacy of certain confidential information. You should include a privacy policy along with fund subscription materials and update (as necessary) and distribute the privacy policy at least annually. Selecting and adhering to a fixed date for distribution each year will help ensure compliance.

ANTI-MONEY LAUNDERING POLICY

Anti-money laundering practices and procedures should be in the form of a written policy that should be strictly adhered to and reviewed periodically for new money laundering threats. Additionally, compliance programs should be reviewed to ensure compliance with the economic sanctions programs administered by the Office of Foreign Assets Control.

STATE REGISTERED AGENT AND ADDRESS

Most states require the amendment of formation documents on file with the state if the entity changes address or registered agent. If you have recently moved and did not amend your entity's Certificate of Limited Partnership, Articles of Incorporation or Articles of Formation (to name a few), please check to ensure that your address is current with state regulatory agencies.

STATE NOTICE FILINGS

Review your current advisory activities in the various states and confirm that all applicable state notice filings are made on IARD. Register or renew registrations in the applicable states of any of your professionals who qualify as "investment adviser representatives." You should confirm that your IARD electronic account is adequately funded to cover expenses associated with registration renewal (for both the SEC and with any states) for the year.

FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA) RESTRICTED ISSUES

Investment funds purchasing initial public offering equity securities (New Issues) are required to determine if their underlying investors are "restricted persons" under NASD Rule 2790 in order to participate in such New Issue offerings. In addition to an initial certification of New Issue participation eligibility, Rule 2790 also requires an annual certification for continued New Issue eligibility compliance. This annual certification may be obtained through "negative consent" letters.

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PRIVATE PLACEMENT MEMORANDUM UPDATES

Numerous sections of your Private Placement Memorandum or other offering documents used in the offering of interests in your fund may need to be updated to reflect changes to various regulations or changes in the business or operations of the fund, including—

ERISA

The Pension Protection Act of 2006 (*Act*) amended the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (Code) by providing relief for hedge funds and other collective investment vehicles from becoming "plan assets" and thereby subjecting their managers to fiduciary responsibility under ERISA plans. Under ERISA, assets of an entity such as a hedge fund or collective investment vehicle are not treated as plan assets (and therefore not subject to ERISA requirements) if, immediately after the most recent acquisition of any class of equity in the vehicle, less than 25 percent of the total value of each such class of equity is held by benefit plan investors. While the definition of plan assets is still subject to regulations promulgated by the secretary of labor, the Act alters the scope of plan assets in two significant ways: (i) by eliminating governmental plans, church plans and foreign plans from the definition of "benefit plan investor," thus potentially reducing the percentage of plan assets when a hedge fund or other collective investment vehicle calculates the 25 percent limit, and (ii) by changing the method of calculating the amount of plan money invested in a fund-of-funds structure. Additionally, the Act now requires ERISA managers to have a $1 million maximum fidelity bond (as opposed to more than $500,000) for investors with plans invested in "employer securities." Certain trades conducted on electronic communication networks and cross-trades may qualify under new statutory exemptions from the prohibited transaction rules; provided that certain notices and disclosures are made to the client. International equity portfolio managers should review Prohibited Transaction Exemption 2006-16 for new criteria regarding lending to foreign broker-dealers. Fund managers may want to consider revising their offering documents in order to update and revise existing ERISA disclosures.

Use of Soft Dollars

The SEC's latest interpretive release regarding the use of "soft dollars" clarifies the circumstances under which money managers may use client commissions to pay for brokerage and research services under the soft dollar safe harbor in Section 28(e) of the Securities Exchange Act of 1934 (Safe Harbor) and specifically addresses four issues: (1) when do "brokerage or research services" fall within the Safe Harbor, (2) what constitutes "eligible research," (3) what constitutes "eligible brokerage services" and (4) what is the appropriate treatment for "mixed-use" items. Fund managers should ensure that their soft dollar practices and disclosures are consistent with the SEC's latest guidance.

General Document Updating

We recommend that our clients conduct a review of their offering documents at least annually to determine if changes have occurred in investment objective or strategy, brokerage practices, key personnel, risk factors and other material provisions.

INVESTMENT ADVISER COMPLIANCE BEST PRACTICES

Compliance Manual and Compliance Officer

Federally registered investment advisers must have both an internal chief compliance officer and a compliance manual detailing the adviser's internal regulatory compliance policies and procedures. Advisers should perform a risk

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assessment and update compliance procedures annually. Written evidence of these reviews should be retained. The compliance procedures must include a code of ethics and a variety of other items the receipt and acknowledgement of which should be certified quarterly or annually by each employee.

For additional guidance regarding compliance and other industry practices, you may wish to review the Managed Funds Association recently published 2007 edition of Sound Practices for Hedge Fund Managers (Sound Practices), which provides updates on valuation, risk management and responsibilities to investors as well as a framework of internal policies, practices and controls. For a copy of the Sound Practices please visit: http://www.managedfunds.org/downloads/Sound%20Practices%202007.pdf. To learn more about MFA go to: http://www.managedfunds.org

Delivery of Annual Audit

The rules governing custody of client's funds require that registered investment advisers to pooled investment vehicles deliver audited financial statements to their investors within 120 days from the end of their fiscal year.

Recordkeeping

SEC registered investment advisers must maintain records that support the use of the adviser's past performance in advertisements or materials distributed, directly or indirectly, to 10 or more persons.

COMMODITY POOL OPERATORS (CPOS)/COMMODITY TRADING ADVISORS (CTAS)

Update of National Futures Association (*NFA*) Registration Information

Pursuant to new CFTC Regulation 3.10 approved June 26, 2007, registered CPOs or CTAs must update their NFA registration information via NFA's Online Registration System and pay annual NFA dues on or before the anniversary date that the CPOs or CTAs registration became effective. Failure to complete the review within 30 days following the date established by the NFA will be deemed to be a request for withdrawal from registration, which will become effective on the 30th day after the failure to complete the review.

Complete NFA Self-Examination Questionnaire

Registered CPOs and CTAs are required to complete and retain the NFA's "self-examination questionnaire" on an annual basis.

Delivery of Annual Reports

Registered CPOs are required to file certified annual reports for their pools with the NFA. Annual reports are due electronically through NFA's EasyFile system within 90 days of the pool's fiscal year end or within 120 days for a fund-of-funds. Certified annual reports must also be distributed to the pool's participants within the above stated deadlines.

We encourage our clients to adopt compliance best practices in all aspects of their business, including the adoption and adherence to written compliance policies and procedures. Recent increases in regulatory scrutiny of the industry have made the need for these best practices all the more imperative.

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CONTACT INFORMATION

Additional information on these and other topics relevant to your business is available at http://www.akingump.com/alerts.cfm. If you need advice or assistance on your compliance and update requirement needs, please contact:

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