Jumpstart Our Business Startups Act (JOBS Act) Signed Into Law:

President Obama recently signed the *Jumpstart Our Business Startups (JOBS) Act* into law, resulting in a number of changes that will modernize securities laws and allow small businesses to have greater access to capital. Among others, some notable provisions would: instruct the SEC to remove the ban on general solicitation and advertising for offers and sales under Rule 506 of Regulation D as long as all purchasers of the securities are accredited investors, and raise the shareholder reporting trigger in Section 12(g) of the Securities Exchange Act of 1934 from 500 to 2,000.

MFA believes removing the ban on general solicitation and advertising will help improve transparency and increase awareness surrounding the hedge fund industry, benefiting investors, regulators, and the general public. On January 6, 2012, MFA submitted a petition to the Securities and Exchange Commission advocating for removal of the general solicitation and advertising ban. Following enactment of the JOBS Act, the SEC has a 90-day timeline to revise its rules and amend Regulation D. MFA plans to continue providing feedback to the SEC regarding the rules and their potential impact on the hedge fund industry.

International Engagement: Over-the-Counter (OTC) Derivatives Regulation in Singapore:

Regulatory bodies around the world are stepping up efforts to finalize new rules and guidelines for various components of the financial services industry. In February 2012, the Monetary Authority of Singapore (MAS) issued for public comment a Consultation Paper on "Proposed Regulation of OTC Derivatives" (Consultation Paper).

MFA strongly supports the goals of OTC derivatives regulation to enhance transparency and reduce systemic risks. A well-functioning OTC derivatives market is essential to support efficient capital flows, given its critical role in the investment and risk management activities of many market participants. As a result, on March 26, 2012, MFA submitted comments to MAS on the proposals in the Consultation Paper to help bolster the efficacy of the proposed regulatory regime and minimize any adverse impacts or unintended consequences in its implementation. In particular, in our comment letter, MFA shared its views on the following topics:

- Proposed clearing mandate
- Proposed reporting mandate
- Potential margin requirements
- Authorization and regulation of clearing facilities
- International harmonization

Read the full text of MFA's comment letter to MAS here.

International Engagement: Official Publication of Short Selling Regulation and Markets in Financial Instruments Directive (MiFID):

On March 24th, the final text of the new EU Regulation on Short Selling and Certain Aspects of Credit Default Swaps (the "Regulation") was published in the Official Journal of the European Union. On November 1, 2012, the Regulation will become law in all EU Member States. The Regulation will impose several new obligations and restrictions on investors, including notification requirements on net short positions in EU sovereign debt, notification and public disclosure requirements on net short positions in EU shares, restrictions on uncovered short positions in EU shares and sovereign debt, and restrictions on uncovered EU sovereign CDS. On March 9th, MFA submitted a comment letter to the European Securities and Markets Authority (ESMA) regarding the impact the Regulation would have on the industry. In total, MFA submitted three letters to ESMA on this issue.

On March 26th, MEP Markus Ferber published a draft MiFID proposal. He stated his positions on algorithmic/high frequency trading, position limits for commodities, and third country rules. MEP Ferber's full report can be found here.

Richard H. Baker *HFMWeek* Column:

Richard H. Baker, MFA's President and CEO, had a column published in *HFMWeek* on March 28th emphasizing the need for "cross-border coordination" on financial regulatory efforts. Mr. Baker touched on important global issues such as over-the-counter (OTC) derivatives, short selling and the Alternative Investment Fund Managers Directive (AIFMD). Global co-ordination, he stressed, would not occur without effort, but warned that "we should not… let a rush to action cloud our judgment and our ability to implement coordinated reforms that will truly benefit the global investment community."

MFA Response to *New York Times* Article:

On April 2, the *New York Times* ran a misleading article - "Pensions Find Riskier Funds Fail to Pay Off" - about the relationship between public pensions and hedge funds. Richard H. Baker, MFA's President and CEO, submitted a Letter to the Editor to the *Times*, and MFA released a series of facts, challenging assertions made in the article:

- The article focused on returns over a five-year period of time – evaluating performance in the midst of the financial crisis. Most institutional investors judge performance over at least ten years. From 2002-2011, hedge funds outperformed the S&P 500 and DJIA and have given better protection against risk than other indices from 1987-2011, according to data by the Hennessee Group.
- Mr. Baker also challenged the use of data in the article - using the five-year returns of the entire investment portfolio to suggest the performance of pension funds' alternative investments. This approach is misleading because in many of the pension funds cited in the article the alternatives portfolio actually outperformed the total portfolio over five years.
    - For example, the story noted Massachusetts Pension Reserves Investment Management Board's 34% allocation to alternatives but only a 4.4% total return over five-years. The five-year return solely for alternatives, however, was 9.05% for that pension fund, and over ten-years alternatives have returned almost 34% for Massachusetts.

Hedge funds are not the only solution, but they are a tool used by investors to manage risk, diversify portfolios and produce reliable returns over time.

National data illustrates that pension plans continue to invest in hedge funds and private equity—for example, one GAO study revealed that the percentage of large plans investing in hedge funds grew from 47 percent in 2007 to 60 percent in 2010—and most plans GAO contacted have also maintained or increased their allocations to these investments.