MFA POLICY BRIEF

MFA Submits Letter to SEC on Proposed Capital, Margin, and Segregation Rules:

On February 22, MFA submitted a comment letter to the Securities and Exchange Commission (SEC) on its proposed rules on "Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers." In the letter, MFA expressed support for measures intended to reduce risk in the security-based swaps (SBS) market, including appropriate risk-based margin and capital requirements, and the implementation of segregation requirements that increase protection of customer collateral.

MFA offered a number of comments in the letter, aimed at helping the SEC balance the need to protect customers, liquidity and the overall functioning of the SBS market. Read the complete letter here.

MFA Comment Letter on Proposed Net Investment Income Tax Rules:

On March 5, MFA submitted a comment letter to the Internal Revenue Service (IRS), responding to its proposed rules to implement the net investment income tax provisions of the Health Care and Education Reconciliation Act of 2010. In the letter, MFA encouraged the IRS to modify the proposed rules to:

(1) better ensure that gains and losses derived from the trade or business of trading in securities or commodities can be netted against each other;
(2) permit net operating loss carry forwards with respect to eligible items, subject to appropriate tracking;
(3) ensure that capital gains and losses can be fully netted against each other;
(4) permit up to $3,000 in capital losses of so-called Category 3 income to be deducted from so-called Category 1 income;
(5) permit the election with respect to the treatment of controlled foreign corporations and so-called electing passive foreign investment corporations to be made by funds on behalf of their investors, or allow the election to be made on individual CFCs/PFICs; and
(6) permit taxpayers to deduct foreign taxes as an expense when calculating their net investment income under the rules.

MFA is concerned that, if these suggested amendments are not incorporated into the final rules, taxpayers would be subject to over-taxation as they would be required to pay taxes on an amount greater than their actual net investment income.

Click here to view the comment letter to the IRS.

Financial Transaction Tax Developments in the EU, Proposal Introduced in the U.S.:

The financial transaction tax proposal is winding its way through the European Union's legislative process. Recent media coverage detailed the potential consequences of the proposal and the politics that could complicate its implementation. *Bloomberg Businessweek* reported on the history of financial transaction taxes in Sweden and the U.S., noting that in both instances trading moved elsewhere. A *Financial Times* article detailed how coalition politics in Germany could put the transaction tax at risk.

Conversation around the issue is also picking up in the U.S., with Senator Tom Harkin (D-IA) introducing legislation calling for a financial transaction tax. A recent article in *The Trade* explains that the bill, "would tax equity and bond transactions at 0.03% and derivatives contracts at an as-yet unspecified rate of notional value." The Obama Administration has previously stated it opposes such a tax.

Click here to view the *Bloomberg Businessweek* article.
Click here to view the *Financial Times* article.
Click here to view the article from *The Trade*.

MFA's Response to NYT "Opinionator" JOBS Act Article:

MFA recently wrote a short piece supporting key provisions in the Jumpstart Our Business Startups (JOBS) Act designed to remove the general solicitation ban covering private offerings, such as hedge funds. MFA's piece responds to content included in a recent op-ed in the *New York Times* on the JOBS Act authored by Steven Rattner.

MFA believes that eliminating the ban would resolve 30 years of uncertainty caused by the SEC's current framework for private offerings. When the SEC implements the JOBS Act, which passed Congress with strong bi-partisan support, private funds and other private issuers operating within the SEC's Regulation D will finally be able to publicly communicate meaningful information about their businesses, such as investment strategies and performance. Removing the ban allows these businesses to communicate like any other legitimate business in America. While the JOBS Act ushers in a new era of communication and transparency, it does not change a very fundamental regulation - only sophisticated investors will continue to be able to purchase interests in hedge funds.

Read the full MFA post on the JOBS Act here.
Click here to view Mr. Rattner's piece in the *New York Times*.

MFA President and CEO Featured in Article Detailing FATCA:

Hedge funds are among the firms working to comply with new regulations issued in January to implement the Foreign Account Tax Compliance Act (FATCA). A recent article in *Pensions & Investments* details the importance of this law and the steps managers are taking to comply with its requirements. The article explains, "The law will apply to any fund trading or investing, directly or indirectly, in U.S. assets, or any entity in an affiliated group with that fund. It also applies to the funds' service providers and counterparties." Most hedge funds and private equity funds will need to register with the Internal Revenue Service as a foreign financial institution.

MFA has been active on FATCA issues, communicating with government agencies throughout the rulemaking period. MFA's President and CEO was quoted in the article, noting, "U.S. resident investment advisers … should be permitted to have responsibility for the compliance function."

FATCA officially takes effect in January 2014 (when the 30% withholding tax kicks in), but the IRS will begin classifying firms as FATCA-compliant in October 2013.

Read the full text of the *Pensions & Investments* article online here.

New Industry Surveys from Credit Suisse and Deutsche Bank Show Upbeat Prospects for Hedge Funds This Year:

Two recent industry surveys predict important new trends in the hedge fund industry for 2013 that could bring industry assets to a new record.

Credit Suisse's annual global survey of institutional investors predicted total hedge fund industry assets will rise to a new record of $2.42 trillion by year's end. Pension funds, in particular are expected to continue partnering with hedge funds to manage assets. Long/short equity hedge funds were the most sought after type of hedge fund according to the 550 institutional investors who were polled, including pension funds, consultants, and family offices.

The new Deutsche Bank survey offered a similar forecast for the year ahead, noting that investors believe allocations to hedge funds may triple in 2013 with global hedge fund assets growing to $2.5 trillion by year-end. The survey also notes that 57% of institutional investors – including pensions, endowments, and foundations – reported increased hedge fund holdings last year. In fact, a majority – 66% of pension funds – grew their hedge fund allocations last year. An additional 47% of pensions note that they will likely increase their hedge fund holdings in 2013.

Overall, the survey found that 62% of investors said they expect their hedge fund holdings to increase in 2013, compared with only 42% whose allocations increased in 2012.

Click here to read more about this year's Credit Suisse survey in a recent *Reuters* article.
Click here to read *Bloomberg's* coverage of the Deutsche Bank Survey.