MFA POLICY BRIEF

MFA Encourages Quantitative-Based Metrics for Systemic Risk Analysis:

MFA submitted a comment letter to the Financial Stability Board (FSB) and the International Organization of Securities Commissions (ISOCO) in response to the FSB/IOSCO consultation paper on assessment methodologies for non-bank non-insurer globally systemically important financial institutions.

In the comment letter, MFA encouraged the FSB and national systemic risk regulators to analyze hedge fund information using quantitative-based metrics, which we believe will demonstrate that hedge funds do not pose systemic risks.

MFA also responded to the specific proposals in the consultation paper, encouraging the FSB to adopt final recommendations consistent with the following key points: (1) systemic risk regulators should conduct analysis at the individual fund level and not at the level of the family of funds, the asset manager, or the asset manager and its funds collectively; (2) the FSB and IOSCO should use a metric other than gross notional exposure ("GNE") to measure an investment fund's gross assets under management, since GNE does not a reflect a fund's actual market risk or counterparty exposure and ignores material variations among positions by (i) asset class, (ii) tenor, (iii) netting terms, (iv) margining and collateral arrangements, and (v) clearing status; (3) the FSB and IOSCO should only recommend indicators that are consistent with the statement in the consultation paper that investment funds may cause systemic risk via the counterparty channel and the market channel; and (4) the FSB and IOSCO should only recommend indicators well designed to measure systemic risk and not recommend indicators that are likely to measure other types of non-systemic risks.

Read and download MFA's comment letter to the FSB/IOSCO here.

MFA Seeks Reduced Reporting Burden on Passive Foreign Investment Company Holdings:

MFA submitted a letter to the Internal Revenue Service (IRS) encouraging the IRS to exclude funds that mark their assets to market under Section 475(f) of the Tax Code from the requirement to report holdings in passive foreign investment companies (PFICs) on Form 8621. In the letter, MFA noted that funds making a 475(f) election generally are not subject to PFIC rules under the Tax Code and that such funds do not present the policy concerns underlying the PFIC rules. MFA further noted that, because funds making a 475(f) election treat PFIC investments the same as other investments from a substantive tax perspective, the additional tracking and reporting that would be required would present significant burdens on taxpayers without providing the IRS with meaningful information.

Read MFA's comment letter to the IRS here.

MFA Questions New Capital Requirements for CPOs and CTAs:

MFA submitted a letter to the National Futures Association (NFA) in response to its Notices to Members I-14-03 and I-14-05 on "CPO/CTA Capital Requirement and Customer Protection Measures" (the "Notice"). In the letter, MFA objected to the imposition of capital requirements on commodity pool operators (CPOs) and commodity trading advisors (CTAs) because, among other things: (i) such requirements would not ensure greater protection of customer funds; (ii) substantial regulatory protections already exist; and (iii) such requirements would be costly and complicated to implement and monitor.

MFA also considered the additional customer protections measures for which NFA requested comment. In particular, MFA expressed concerns with requiring independent third party review and authorization of pool disbursements; independent third party preparation or verification of periodic account statements and pool performance; and reporting to NFA of the balances in a pool's accounts. Our letter expressed concern that requiring independent third party authorization for disbursements of pool funds could be unduly burdensome, might hinder the investment and other operations of the pool, and could introduce additional risk into the system. We also expressed concern that the cost of implementing the customer protection measures suggested in the Notice would overwhelmingly outweigh their benefits.

Read and download MFA's letter to the NFA online here.

Pensions Contribute to Growth of Hedge Fund Industry:

A report by J.P. Morgan's Prime Brokerage business found that pension funds are the largest and fastest growing investor in the hedge fund industry and that the amount of assets invested by defined benefit plans in hedge funds increased faster than any other investment class. The 2014 Investor Sentiment Report, released in March, indicates that hedge fund managers delivered a better performance in 2013 compared to previous years. According to the survey, 97% of the institutional investors indicated their plans to maintain or increase the number of their hedge fund investments in 2014. The report also shows that the 200 largest pension funds in the United States have $150 billion in combined total direct investments in hedge funds and hedge fund of funds, roughly 10.3% higher than the previous years.

More than 88% of Pensions allocate more than $25 million per hedge fund investment and the majority of institutional investors did not redeem capital from the hedge fund industry even in the midst of uncertainty, but instead reduced their exposure to underperforming managers and strategies. Investors also became more interested in emerging hedge funds with less than $100 million assets under management (AUM), describing 2014 as the most active year for hedge fund launches since prior to the financial crisis.

Learn more about the J.P Morgan study online here.

MFA Introduces Client Electronic Trading Services Representation Template:

MFA worked with its members to develop a client electronic trading services representation template to facilitate compliance with new regulations in Canada with respect to trading on the Bourse de Montréal.

On February 27, 2014, the Regulatory Division of Bourse de Montréal Inc. (the "Bourse") issued approved amendments to article 6366 of the Rules of the Bourse on access to electronic trading ("Bourse article 6366"). The Bourse's amended article 6366 was prompted by the Canadian Securities Administrators' amendments to Regulation 23-103 Electronic Trading. Bourse article 6366 requires a Bourse approved participant to establish minimum client requirements with respect to their electronic trading access services.

To assist investment manager Members who use electronic trading access services with streamlining the representations they will need to make to approved Bourse participants pursuant to Bourse article 6366, MFA developed the template for Members' consideration.

Access the client electronic trading services representation template here.

Read the Regulatory Division of Bourse de Montreal Inc.'s approved amendments to article 6366 here.

New Educational Resources From MFA:

Recently, MFA released its latest educational presentations. The first presentation, "2014 Year Ahead," provides an overview of the current 2014 legislative and regulatory agenda for hedge funds. This presentation details a wide range of legislative and regulatory initiatives that are likely to impact the global alternative investment industry in the year ahead. The second presentation, "How Hedge Funds Count Their Assets," details the traditional calculation method that hedge funds use for their assets under management. It also explains the new method of calculation used by the Securities and Exchange Commission, called Regulatory Assets Under Management (RAUM).

View and download MFA's "2014 Year Ahead" presentation.

View and download MFA's "How Hedge Funds Count Their Assets" presentation.

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