



ICSA

INTERNATIONAL COUNCIL of SECURITIES ASSOCIATIONS

December 14, 2007

Thomas Deinet
Hedge Fund Working Group
13th Floor
The Adelphi
1/11 John Adam St
London
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Dear Mr. Deinet,

The Working Group on Hedge Funds of the International Council of Securities Associations (ICSA) appreciates the opportunity to comment on the Consultation Document recently released by the Hedge Fund Working Group (HFWG). ICSA is composed of self-regulatory organizations and trade associations for the capital market from a broad range of jurisdictions, as well as a number of international trade associations. ICSA members represent and in some cases regulate the firms that carry out much of the activity on the world's equity, bond and derivatives markets.¹

We believe that the recommendations contained in the Consultation Document represent an extremely important initiative that should lead to the development of global standards for the hedge fund industry. We are pleased that the hedge fund industry is moving forward on a self-regulatory basis and we particularly support the principles-based approach taken in the Consultation Document, which we believe is consistent with the recommendations contained in ICSA's *Principles for Better Regulation*.²

The work done by the HFWG represents a milestone in the industry's development and should therefore achieve widespread acceptance by hedge funds and their investors. We also believe that the recommendations contained in the Consultation Document represent the first stage in a process of developing practices that will continue to evolve in response to changes in the industry and the wider environment.

¹ A list of ICSA members and the organization's ongoing activities can be found at: www.icsa.bz. The ICSA Working Group on Hedge Funds comprises the International Capital Markets Association (ICMA), the Investment Dealers Association of Canada (IDA), Japan Securities Dealers Association (JSDA), Korea Securities Dealers Association (KSDA), the London Investment Bankers Association (LIBA) and the Securities Industry and Financial Markets Association (SIFMA).

² A copy of ICSA's *Principles for Better Regulation* is enclosed with this letter.

Regarding the specific recommendations contained in the Consultation Document, ICSA members generally believe that regulators should not seek to impose ‘one size fits all’ solutions. Therefore, we particularly welcome the attention which the Consultation Document pays to the need for smaller hedge fund managers to consider how best to achieve the outcomes which the Consultation Document describes. The explicit recognition that smaller firms should not experience undue hurdles and that barriers to entry should be kept low as possible is also welcome. As noted in the Consultation Document itself, this cautious approach will allow for continued innovation within the industry while also ensuring continued competition.

Additionally, the HFWG should be sensitive to market practices in different jurisdictions, which may vary significantly from those in the UK. For example, the Consultative Document proposes best practices that would prevent hedge funds from borrowing shares for the purpose of voting the proxies. But in jurisdictions such as the U.S., where a combination of regulation and local market practice precludes borrowing shares to vote, it would be unfortunate if the effect of the HFWG's recommendations were to bring about a costly change in company voting procedures.³

We would also note that some of the issues discussed in the Consultation Document – such as disclosure, valuation and risk management related to structured products – have attracted considerable attention over the past few months. Since these issues are being reviewed following recent market events by a number of national and international regulatory and governmental groups, including the G7 and the Financial Stability Forum, we believe that it may be necessary for the HFWG to consider these issues further, in the light of developments in such international fora.

We are grateful to the HFWG for publishing their proposals for comment and we look forward to working with the HFWG as this work proceeds. Representatives from the ICSA Working Group on Hedge Funds would be pleased to meet with members of the HFWG to discuss any of the matters set forth in this letter, or to assist in any other way that would be helpful for its further consideration of the issues.

Sincerely,



Paul Richards, Co-Chairman, ICSA Working Group on Hedge Funds and Director, International Capital Markets Association (ICMA)



David Strongin, Co-Chairman, ICSA Working Group on Hedge Funds and Managing Director, Securities Industry and Financial Markets Association

³ In the U.S. the “permitted purpose” requirement for borrowing stock precludes doing so in order to vote the proxies, and the standard documentation governing securities lending in the U.S. requires that securities can only be borrowed to deliver against a sale.