BLACKROCK

April 12, 2011

BY ELECTRONIC SUBMISSION

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: Comments on (i) Joint Proposed Rulemaking Regarding Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF (File No. S7-05-11) and (ii) Commodity Pool Operators and Commodity Trading Advisors: Amendments to Compliance Obligations (RIN 3033-AD30)

Dear Ms. Murphy and Mr. Stawick:

BlackRock, Inc. appreciates the opportunity to comment on the joint rules proposed by the Securities and Exchange Commission (the "SEC") and the Commodity Futures Trading Commission (the "CFTC") regarding private fund systemic risk reporting on Form PF,[1] as well as the CFTC's proposed rulemaking regarding systemic risk reporting on Forms CPO-PQR and CTA-PR.[2] Form PF proposes a system of periodic risk reporting for advisers to private funds pursuant to the Congressional mandate contained in Sections 404 and 406 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), which amend Sections 204 and 211 of the Investment Advisers Act of 1940 (the "Advisers Act"). Forms CPO-PQR and CTA-PR are proposed pursuant to the CFTC's general rulemaking authority under the Commodity Exchange Act (the "CEA") and are intended to facilitate the CFTC's collection of systemic risk information. For ease of reference, Forms PF, CPO-PQR, and CTA-PR are referred to collectively as the "Form."

BlackRock is one of the world's leading asset management firms. We manage over $3.6 trillion on behalf of institutional and individual clients worldwide through a variety of equity, fixed income, cash management, alternative investment, real estate and advisory products. Our client base includes

[1] *See* 76 Fed. Reg. 8068 (Feb. 11, 2011) (the "Joint Proposing Release").
[2] *See* 76 Fed. Reg. 7976 (Feb. 11, 2011) (the "CFTC Proposing Release").

corporate, public and multi-employer pension plans, insurance companies, mutual funds and exchange-traded funds, endowments, foundations, charities, corporations, official institutions, banks, and individuals around the world. BlackRock, through its subsidiaries, provides investment advice to a large number of private funds and commodity pools.

We support the goals of the Congressional mandate and the efforts of the SEC and the CFTC to identify and monitor potential systemic risk posed by private funds. However, we are concerned that the scope of Forms PF, CPO-PQR, and CTA-PR, as proposed, will create an undue burden on the asset management industry, result in greatly increased compliance costs, and divert advisers' attention from their primary duty of managing client assets without a sufficiently clear benefit to justify such burdens. In addition, we believe that an incremental approach to systemic risk reporting would allow both the regulators and the industry to better determine the appropriate scope of the reporting forms.

BlackRock's primary concerns with proposed Form PF are as follows:

- *The SEC and CFTC should adopt a single common reporting form*
- *The scope of the Form is overly broad and unnecessarily burdensome*
- *The time to file initially and after each reporting date should be extended*
- *Advisers should report less frequently*
- *Daily portfolio size monitoring is unnecessary and unduly burdensome*
- *Advisers should be provided a de minimis exemption for small private funds and commodity pools*
- *The individual certification should allow for good faith reporting based on the adviser's internal policies and procedures consistently applied*
- *The initial report should be due no sooner than nine months after the Form is adopted*
- *Reporting requirements should use industry standard metrics and conventions*

We elaborate on each of these points further in the body of this letter.

The SEC and CFTC should adopt a single common reporting form.

We recommend that the SEC and the CFTC combine their systemic risk reporting requirements into Form PF, instead of requiring advisers to file both Form PF and Forms CPO-PQR and CTA-PR, as applicable. We support the efforts of both the SEC and the CFTC to identify and assess systemic risk through periodic reporting, and we recognize and appreciate their efforts to eliminate duplicative filings and reports by allowing certain sections of Form PF to satisfy certain CFTC systemic risk reporting requirements. However, the forms are far from identical, and asset managers that advise both private funds and commodity pools (that are not also private funds) would be required to track and file two parallel sets of information with the SEC and the CFTC. This parallel reporting regime is duplicative, unnecessary, and highly burdensome. Furthermore, since the SEC and CFTC forms often use different definitions and metrics for similar classes of information, we expect it would be difficult for the regulators to aggregate data between the forms in order to accurately review systemic risk across the industry. We believe it would be more logical, efficient, and cost-effective for the SEC and CFTC to combine their systemic risk reporting into a single unified Form.

Dual registrants would be subject to even further duplication, as they would be required to file fund-level information for the same funds on both the applicable sections of Form PF as well as Schedule A of proposed Form CPO-PQR and of Form CTA-PR.[3] Schedule A of Forms CPO-PQR and CTA-PR is highly duplicative of the reporting requirements contained in Form PF. In particular, Schedule A of Form CPO-PQR requires detailed information on a pool-by-pool basis, which for the private funds of dual registrants is already included on Form PF. While the type of information requested is broadly similar, the forms are not identical and completing and filing both forms for the same entities would impose a substantial operational burden and expense on advisers that is both duplicative and unnecessary and does not seem to have benefits that outweigh the costs.

Since Form PF is being proposed jointly by the SEC and the CFTC, we request that the SEC and CFTC harmonize and further coordinate their efforts to include in Form PF all information requested by either regulator. Additional information only requested from certain types of filers (e.g., CFTC-specific information requested from CFTC registrants) could be included as a separate section of Form PF to be completed only by such filers, which would be consistent with the current structure of Form PF. Pursuant to Sections 404 and 406 of the Dodd-Frank Act, both the SEC and CFTC have the ability to access information reported on Form PF. A truly joint reporting form would allow both regulators to monitor systemic risk using consistent data reported in a consistent manner, while substantially reducing the compliance burden for advisers.

[3] *See* Joint Proposing Release at 8069, n.15.

The scope of the Form is overly broad and unnecessarily burdensome.

We believe the burden imposed on advisers by the frequency of reporting and level of detail requested by the Form is highly disproportionate to the benefit to be gained by the regulators and the Financial Stability Oversight Council, and we believe that there are other ways for the regulators to obtain the necessary information with a lesser burden. The Form as proposed would require an extensive investment of time, money, and technology on both an initial and ongoing basis and would distract advisers from their primary responsibilities and greatly increase their cost of doing business. Advisers would be required to obtain many new data points from both internal and external parties, including third-party administrators, prime brokers, trading counterparties, and valuation providers. We expect the Form, as proposed, would necessitate advisers hiring additional compliance personnel, large-scale technology development, and extensive monetary investments in order to comply with the reporting regime.

As part of the comment process, we have engaged in an internal review of the expected processes necessary to calculate, review, and file the type and volume of information requested by the Form. We believe the SEC's and CFTC's estimated burden hours and cost for advisers to complete the Form is greatly underestimated by orders of magnitude. Even assuming expected efficiencies and systems that may be developed over time, the burden for advisers will be extraordinary and unprecedented in the private investment funds industry.

As an alternative, we recommend that the SEC and CFTC initially request a smaller, core set of data, and with experience and industry input determine if other data would be additive to their understanding of systemic risk in the private fund space. We recognize that systemic risk monitoring is an iterative process and we would welcome the opportunity to work with the SEC and CFTC to create a practical Form that is not unduly burdensome to market participants.

The time to file initially and after each reporting date should be extended.

We recommend that the reporting deadline for all advisers, regardless of size, be extended to 120 days following the end of each reporting period. As proposed, smaller advisers would be required to file Form PF annually within 90 days while large private fund advisers, such as BlackRock, would be required to file Form PF quarterly within 15 days. Forms CPO-PQR and CTA-PR are proposed to be filed within 15 days of the quarter-end for all filers.

In our view, the proposed 15-day timeframe would severely undercut any adviser's ability to accurately gather data, determine net asset values and related metrics, and properly value assets. Valuation dates are generally determined by subscription and redemption dates, which for private funds (other than certain liquidity funds) typically occur quarterly and no more frequently than monthly. Such valuations are required to determine assets under management and net asset value at both an aggregate level and a fund-by-fund level, which serve as inputs into many other calculations that would be required by the Form. As such, many data points requested by the Form would require input from a large number of internal departments and operating systems, and some would require input from third-

party sources such as fund administrators, prime brokers, trading counterparties, and valuation providers.

Given the volume and disparate sources of the data requested, in many respects we believe the Form is in excess of the complexity of conducting an audit of a private fund, which under the SEC's custody rule are afforded a 120-day time period for completion.[4] Therefore, we recommend that all advisers be permitted a 120-day time period in which to complete and file the Form.

Advisers should report less frequently.

We recommend that large private fund advisers file the Form semi-annually and report information on at most a quarterly basis. As proposed, large private fund advisers would file Form PF quarterly and report on a monthly basis, while at least one section of Forms CPO-PQR and CTA-PR would be filed quarterly by all filers. The proposed timeframes of quarterly filing on a monthly basis would impose a material burden on advisers that is disproportionate to the benefit gained by regulators from such additional information. Not all funds provide monthly reports to investors, and to the extent they do, such reports contain a fraction of the data requested by the Form on a monthly basis. Further, such information is often based on internal valuation estimates, especially for assets that are not publicly traded and do not have a readily ascertainable market value. Requesting the detailed information found in the Form on a monthly basis would be costly and difficult for advisers to obtain and track. Instead, we recommend a balanced approach in which large private fund advisers file the Form semi-annually and report information on at most a quarterly basis.

Daily portfolio size monitoring is unnecessary and unduly burdensome.

As proposed, Form PF requires that an adviser test its assets under management and the net asset value of its funds on a daily basis for purposes of the defined terms "large private fund adviser" and "qualifying hedge fund," each of which trigger an increased level of reporting. Form CPO-PQR requires a similar daily measurement for purposes of the defined terms "Mid-Sized CPO," "Large CPO," and "Large Pool." Valuations for illiquid fund assets are costly, take significantly longer than one day to complete, and initial valuations are often subject to further revision. As a result, private funds seldom value their assets, compute their assets under management, or calculate a net asset value on a daily basis. Requiring advisers to adopt such practices on a daily basis for purposes of the Form is not practical or cost-effective. Furthermore, a fund or an adviser that experiences transitory breaches of the relevant threshold should not be deemed to be systemically risky by virtue of that fact alone. Additionally, advisers are highly unlikely to decline client assets, and take an anti-growth business position, merely to avoid additional systemic risk reporting obligations.

As an alternative, we recommend that the reporting thresholds be tested as of the end of the prior reporting period. This would coincide with dates at which the adviser is already measuring its

[4] *See* Rule 206(4)-2 of the Advisers Act.

assets under management and its funds' or pools' net asset value for the Form, which would greatly reduce the costs of portfolio size monitoring. Further, determining the relevant reporting levels in advance of the reporting period would increase reporting certainty for advisers and for the regulators.

Advisers should be provided a de minimis exemption for small private funds and commodity pools.

We recommend that the SEC and CFTC implement a de minimis exemption for the reporting of smaller private funds and commodity pools. Specifically, we recommend that private funds and commodity pools below 5% of the assets under management of the adviser and its related persons be exempted from reporting on the Form, provided that all private funds exceeding $250 million in net asset value must be reported regardless of the adviser's assets under management.

The purpose of the Form is to track systemic risk at the private fund and commodity pool level. Small private funds and commodity pools, even if managed by a large adviser, are unlikely to raise systemic risk concerns. The proposed metric would allow advisers of all sizes to exempt private funds and commodity pools that constitute a de minimis portion of the adviser's assets under management, while requiring all private funds and commodity pools exceeding $250 million in net asset value to be reported. The SEC and CFTC would still obtain detailed information on larger private funds and commodity pools and a representative sample of information from all advisers, which would allow the regulators to track systemic risk without having to sort through large amounts of data on smaller, less systemically significant private funds and commodity pools. Allowing advisers to exempt small private funds and commodity pools would also ease the reporting costs and other burdens on all advisers, while maintaining the SEC's and CFTC's ability to track systemic risk.

To most efficiently implement the exemption, we recommend private funds and commodity pools meeting this criteria be exempted from the individual reporting requirements and from the adviser's aggregate information; however, we recommend including such private funds for purposes of the large private fund adviser test (i.e., the $1 billion in assets under management test in Form PF). By including such private funds and commodity pools in the large private fund adviser test, this prevents advisers from setting up a number of small private funds and commodity pools to arbitrage the exemption.

The individual certification should allow for good faith reporting based on the adviser's internal policies and procedures consistently applied.

Due to both the type of information required by the Form and the proposed reporting timeframe, we recommend that the certification standard for the entire Form be revised to ask that the adviser has completed the Form in good faith based on its own internal policies and procedures consistently applied. Currently, Form PF requires individuals to certify, under penalty of perjury, that the information and statements made in the Form are true and correct. Forms CPO-PQR and CTA-PR require a similar standard that the information provided is complete and accurate, and not misleading in any material respect, to the best of the signatory's knowledge and belief. Both Form PF and Forms

CPO-PQR and CTA-PR requires data that cannot be calculated precisely in the required time frame as well as subjective information based on hypothetical situations which will inevitably lead to a level of uncertainty that would be inconsistent with such a strict certification standard.

Some information required by Form PF is not of the type that can be certified as true and correct under the penalty of perjury. Advisers, for the first time, will have to report information that in many cases is distinct from the industry standard data that is currently tracked and is subjective in nature. They will have to report based on their own interpretations of questions relating to their individual businesses, including investment techniques, portfolio management, use of leverage, collateral practices and other internal operations after designing and implementing systems and procedures to begin gathering such new information. It would be inappropriate to ask advisers to certify that their responses to such questions are true and correct in all circumstances; advisers should instead confirm that they have made their assumptions or estimates in good faith based on the procedures used in their day-to-day business applied in a consistent manner.

Additionally, because of the time constraints imposed by Form PF and Forms CPO-PQR and CTA-PR, advisers would not have sufficient time to complete their full valuation methodologies for calculating portfolio positions and other information. Instead, information that advisers submit should be expected to be as accurate as possible under the circumstances and be prepared in good faith. A certification that the Form was completed in good faith based on the adviser's own internal policies and procedures, consistently applied, would ensure that advisers provide accurate information on the Form while subjecting them to a reasonable standard of care.

The initial report should be due no sooner than nine months after the Form is adopted.

We recommend that the initial filing of the Form be due no sooner than nine months after the promulgation of final rules. Advisers will need sufficient time to enhance and further develop systems where appropriate to track the relevant information. Currently, large private fund advisers would be required to file an initial Form PF by January 15, 2012, although proposed Form PF is subject to change and no date for publication of final rules has been set. Given the complexity of Form PF data, precise and predictable instructions and definitions will be critical. These will need to be translated into systems to collect and calculate data, which in some cases may require significant technology developments and enhancements.

Much of the information required by Form PF is not commonly tracked by the industry in the form requested. Accordingly, we expect that across the industry technology systems may have to be developed and enhanced, which would require a large investment of money, personnel, and resources. This is complicated by the fact that some of the required information cannot be collected and compiled by automated means as it requires the subjective judgment of individual portfolio managers. This task is further compounded for large asset managers who will have to report on a large number of private funds and commodity pools. Tracking many of these data points is not standard practice in the industry. As a comparison, the CFTC expects that the rules requiring the filing of Forms CPO-PQR and CTA-PR will become effective six months after the adoption of the proposed forms, and since proposed Forms

CPO-PQR and CTA-PR request quarterly filing, this gives CFTC registrants approximately nine months from adoption of the forms before the first reporting is due. The CFTC acknowledges that this time period is necessary to give registrants sufficient time to develop systems necessary to collect the required information, so we request that the SEC and CFTC adopt a similar timeframe for the first reporting date under the combined Form.[5]

A compliance date should be determined in relation to the publication date of the final rules and consistent with the extreme complexity of the reporting required by the Form. A compliance period of nine months would be consistent with similar past regulatory changes and is absolutely necessary in this case as much of the information and data required by the Form does not currently exist in the requested format.

Reporting requirements should use industry standard metrics and conventions.

To the extent relevant, we recommend that the SEC and CFTC revise the Form to track industry standard definitions and conventions. Further, we recommend that the instructions to the Form be modified to confirm that advisers be able to rely on the same internal reporting procedures and practices when reporting on the Form that they would use when reporting to advisory clients, unless directly contradicted by the instructions. Many of the definitions in the Form are subject to interpretation and many of the data points requested on the Form are not standard in the industry. For example, the comment letter on Form PF submitted by the Managed Funds Association contains extensive itemized comments requesting clarification on individual questions and definitions. Further, certain reporting items may not be applicable to all private funds or commodity pools or may require interpretation depending on the particular circumstances applicable to a reporting fund or commodity pool. We believe that advisers should be allowed to report data on the Form in good faith and consistent with the reporting metrics and disclosures that they provide to their advisory clients in the ordinary course.

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[5] *See* CFTC Proposing Release at 7979.

We thank the SEC and CFTC for providing BlackRock the opportunity to express its views on proposed Form PF and Forms CPO-PQR and CTA-PR. We are prepared to assist the SEC and CFTC in any way we can in order to develop a workable and efficient systemic risk reporting framework for private funds and commodity pools that is not unduly burdensome to market participants, and we welcome a continued dialogue on this important issue. Please contact the undersigned if you have any questions or comments regarding BlackRock's views.

Sincerely,

Joanne Medero
Managing Director