

PUBLICATION

"Best Practices for the Hedge Fund Industry"

April 23, 2008

On April 15, 2008, the President's Working Group on Financial Markets released "Best Practices for the Hedge Fund Industry" (the "HF Report"). The HF Report was prepared at the request of U.S. Treasury Secretary Henry Paulson in response to current market conditions in which alternative investment managers and their investors have endured tremendous levels of volatility.

The HF Report adopts several "best practices" from existing regulation, including that of FINRA, SEC and the CFA Institute. Best practices include:

- Continuing Education Programs;
- Developing a "culture of compliance" within firms;
- Providing certainty and uniformity in the provision of performance information and pricing illiquid securities; and
- Further adapting CFA Institute guidelines, recommending that hedge fund managers implement written codes of ethics that establish guidelines to foster commercial integrity.

The HF Report is very important to investors who utilize US firms and investment managers subject to US regulation. Investors who utilize intermediary fiduciaries (such as consultants or brokerage firms) to select hedge fund managers should confirm their fiduciaries are aware of the recommendations of the HF Report and whether they will require their universe of managers to provide evidence of compliance with those recommendations.

As for hedge fund managers and investment advisors, the HF Report is a clear signal of changes to come. As virtually all regulatory bodies that govern the financial services industry participated in the review of the HF Report in some manner, one can be certain the HF Report will be used (a) as an examination template for regulators who inspect firms that manage, sell or service hedge funds, (b) by disgruntled investors and litigants as a roadmap to pinpoint procedural deficiencies as grounds for the recovery of investment losses and (c) as a blueprint for future legislation. Managers would be well advised to review the HF Report in detail to ascertain where their efforts to improve governance, operations and compliance should be concentrated.