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July 1, 2002

Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183.

Attention: Section 312 Regulations
regcomments@fincen.treas.gov

Re: Notice of Proposed Rulemaking on Anti-Money Laundering Due Diligence Programs for Certain Foreign Accounts

Ladies and Gentlemen:

Managed Funds Association ("MFA") appreciates the opportunity to comment on the notice of proposed rulemaking (the "Proposed Rule") by the Department of the Treasury and the Financial Crimes Enforcement Network (collectively, the "Department") under Section 312 of the USA PATRIOT Act of 2001 (the "Act"). 67 Fed. Reg. 37736 (May 30,2002). MFA, located in Washington, DC, is a global membership organization dedicated to serving the needs of the professionals worldwide who specialize in the alternative investment industry—hedge funds, funds of funds and private and public managed futures fund. MFA has over 600 members, who represent a significant portion of the $500 billion invested in alternative investment vehicles around the world.

MFA strongly supports the U.S. government's efforts to combat money laundering and the financing of terrorist activities.

Section 312 of the Act and the Proposed Rule require each covered financial institution that establishes, maintains, administers or manages a private banking account or a correspondent account in the United States for a non-U.S. person, to establish appropriate, specific, and where necessary, enhanced, due diligence policies, procedures and controls that are reasonably designed to enable the covered financial institution to detect and report instances of money laundering through those accounts.

MFA fully endorses the comment letter submitted by several other leading U.S. trade associations addressing the requirements of the Proposed Rule (the "Joint Comment Letter"). Reliance, in appropriate circumstances, on the due diligence performed by reputable intermediaries is an issue of paramount importance for hedge funds and hedge fund managers.* Throughout the Proposed Rule, the Department refers to a risk-based approach to the due diligence requirements of Section 312. See, e.g., 67 Fed. Reg. at

37739. MFA strongly endorses a risk-based approach. MFA believes that an essential element of an effective risk-based due diligence program for hedge funds and hedge fund managers is the ability to rely, in appropriate circumstances, on the due diligence performed by reputable intermediaries with respect to their own clients. A predicate for such reliance would be an affirmative determination after risk-based due diligence conducted by the hedge fund or the hedge fund manager on the intermediary, that the intermediary's anti-money laundering due diligence on its own clients is adequate in terms of the objectives of this policy. Such reliance constitutes a central theme of the MFA's Preliminary Guidance for Hedge Funds and Hedge Fund Managers on Developing Anti-Money Laundering Programs, which has been well received.

As further set forth in the Joint Comment Letter, appropriate due diligence by a hedge fund or a hedge fund manager on an intermediary, in order to determine whether to rely on the due diligence performed by the intermediary, could include: (i) determining whether the intermediary is from a jurisdiction that follows the Financial Action Task Force on Money Laundering (“FATF”) recommendations on anti-money laundering (or has procedures consistent with the FATF recommendations); (ii) determining whether the intermediary is licensed or regulated by intermediary’s country of domicile; (iii) determining whether the intermediary remains in “good standing” within his country of domicile; (iv) determining whether the intermediary is from the country or territory designated by FATF as noncooperative with international anti-money laundering policies and procedures; and (v) representations from the intermediary as to its own due diligence program and (vi) periodic audits or reviews by the hedge fund or hedge fund manager of the intermediary’s compliance with the intermediaries own anti-money laundering program.

MFA believes that the due diligence performed by an intermediary that satisfies such conditions on its own clients as a practical matter will likely be more thorough and more effective than a hedge fund or hedge fund manager's due diligence on underlying investors.

Once again, MFA appreciates the opportunity to comment. Please contact me at 202.367.1140 or jgg@mfainfo.org if you have any questions or if I can be of any assistance.

Sincerely yours,

John G. Gaine
President

* References to hedge funds and hedge fund managers include commodity funds and commodity pool operators.