

**Senate Banking Subcommittee on Securities, Insurance, and Investment Hearing on
“Regulating Hedge Funds and Other Private Investment Pools”
July 15, 2009**

Opening Statement of Subcommittee Chairman Jack Reed as prepared for delivery:

I want to welcome everyone, and thank Mr. Donahue and our other witnesses for appearing today.

As we continue the important work of modernizing an outdated financial regulatory system, I have called this hearing to explore another key aspect of such reforms, the regulation of hedge funds and other private investment pools, such as private equity funds and venture capital funds.

The current financial crisis has reinvigorated my long-held concern that the regulation of hedge funds and other pooled investment vehicles should be improved to provide more information to regulators to help them address fraud and prevent systemic risk in our capital markets. These private pools of capital are responsible for huge transfers of capital and risk, and so examining these industries and potential regulation are extremely important to this subcommittee.

Hedge funds and other private investment funds generally operate under exemptions in federal securities laws that recognize that not all investment pools require the same close scrutiny demanded of retail investment products, like mutual funds. Hedge funds generally cater to more sophisticated and wealthy investors who are responsible for ensuring the integrity of their own investments, and as a result are permitted to pursue somewhat riskier investment strategies. Indeed, these funds play an important role in enhancing liquidity and efficiency in the market, and subjecting them to fewer limitations on their activities has been, and continues to be, a reasonable policy choice.

However, these funds have often operated outside the framework of the financial regulatory system, even as they have become increasingly interwoven with the rest of the country's financial markets. As a result, there is no data on the number and nature of these firms or any regulatory ability to actually calculate the risks they pose to the broader economy.

Over the past decade the SEC has recognized there are risks to our capital markets posed by some of these entities, and it has attempted to require at a minimum that advisers to these funds register under the Investment Advisers Act so that SEC staff can collect basic information from and examine these private pools of capital. The SEC's rulemaking in this area, however, was rejected by a federal court in 2006. As a result, without statutory changes, the SEC is currently unable to examine private funds' books and records, or to take sufficient action when the SEC suspects fraud. In addition, no regulator is currently able to collect information on the size and nature of hedge funds or other funds to identify and act on systemic risks that may be created by these pools of capital.

To address this regulatory gap, I recently introduced the Private Fund Transparency Act of 2009, which would require investment advisers to private funds, including hedge funds, private equity funds, venture capital funds, and others, to register with the SEC. The bill would provide the

SEC with the authority to collect information from these entities, including information about the risks they may pose to the financial system. In addition, it would authorize the SEC to require hedge funds and other investment pools to maintain and share with other federal agencies, on a confidential basis, any information necessary for the identification and mitigation of systemic risk.

I hope today's hearing provides an opportunity to discuss my proposal and others, so that we can consider ways to determine the best approach in this area. The financial crisis is a stark reminder that transparency and disclosure are essential in today's marketplace. Improving oversight of hedge funds and other private funds is vital to their sustainability and to our economy's stability.