

# Private Fund Update

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**Scott E. Gluck, Esq.**  
Venable LLP

**Washington, DC Office:**

t 202.344.4426

c 540.454.4820

**Los Angeles Office:**

t 310.229.9900

c 540.454.4820

[sgluck@Venable.com](mailto:sgluck@Venable.com)  
[www.Venable.com](http://www.Venable.com)

This week's *Private Fund Update* covers:

- The House Small Business Committee's Views and Estimates on the SBA's FY 2015 budget, which recommends authorizing \$4 billion in FY 2015 for the popular SBIC program;
- The IRS's determination that bitcoin and other virtual currencies should be treated as property rather than currency;
- The SEC's recent cybersecurity roundtable; and
- FSOC's May 19 hearing on the asset management industry.

Key things taking place this week include:

- House Appropriations Committee hearings on the FY 2015 budget for the SEC, Treasury, and Small Business Administration;
- Wednesday's Small Business Committee hearing on bitcoin for small businesses; and
- Thursday's CFTC public roundtable on end-users.

Venable LLP [tracks a wide range of regulatory issues](#), so please [contact me](#) for more information regarding anything contained in this update.

## The 113<sup>th</sup> Congress

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### House of Representatives

#### House Financial Services Committee

[Hearing on Federal Debt](#) – Last week the HFSC held a hearing titled "[Why Debt Matters](#)."

Witnesses were:

- [Mr. David M. Cote](#), Chairman and Chief Executive Officer, Honeywell International Inc.
- [The Honorable Alice Rivlin](#), Senior Fellow, Economic Studies, Brookings Institution
- [Dr. Douglas Holtz-Eakin](#), President, American Action Forum
- [Dr. Jared Bernstein](#), Senior Fellow, Center on Budget and Policy Priorities

A link to the Committee Memo is [here](#) and a video of the hearing is [here](#).

This week, the Committee will hold a hearing on [allegations of discrimination and retaliation at the CFPB](#).

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## House Ways & Means Committee

[Hearing on Trade Policy Agenda](#) – This Thursday, the HWMC will hold a hearing with U.S. Trade Representative Michael Froman on [President Obama's Trade Policy](#). Issues to be covered include: (i) passing the Bipartisan Congressional Trade Priorities Act of 2014; (ii) seeking to conclude a successful Trans-Pacific Partnership agreement this year; and (iii) negotiating with the European Union for a comprehensive and ambitious Transatlantic Trade and Investment Partnership.

## House Small Business Committee

[Hearing on SBA FY 2015 Budget](#) – Last week, the HSBC held a hearing to consider the [Small Business Administration's FY 2015 budget request](#). The Meeting Memo for the hearing is [here](#) and the Committee's [Views and Estimates](#) on the SBA's budget request is [here](#).

Regarding the popular SBIC program, the Committee concurs with the SBA that the program should be provided with an authority level of \$4 billion for FY 2015, the same level as authorized in FY 2014.

[Hearing on Bitcoin](#) – On Wednesday at 1:00 p.m., the SBC will hold a hearing titled "[Bitcoin: Examining the Benefits and Risks for Small Business](#)."

Witnesses will include:

- Mr. Jerry Brito, Senior Research Fellow, Mercatus Center, George Mason University
- Mr. Adam White, Director of Business Development and Sales, Coinbase
- Mr. Mark Williams, Boston University School of Management
- Mr. Michael Couvillion, Associate Professor, Plymouth State University

## House Appropriations Committee

[Financial Services Subcommittee Hearings](#) – The Financial Services Subcommittee has a busy week, with three hearings on the FY 2015 budget for the [Securities and Exchange Commission](#), [Department of the Treasury](#), and [Small Business Administration](#). The hearings take place this Tuesday, Wednesday, and Thursday, respectively.

## **The Senate**

### Senate Banking Committee

[Hearing on Alternative Financial Products](#) – Last week, the SBC held a hearing titled "[Are Alternative Financial Products Serving Consumers?](#)"

Witnesses were:

- [Mr. G. Michael Flores](#), CEO, Bretton Woods, Incorporated
- [Ms. Stephanie Klein](#), Director, NetCredit Consumer Lending, Enova International
- [Mr. Nick Bourke](#), Director, Safe Small-Dollar Loans Research Project, The Pew Charitable Trusts
- [Mr. David Rothstein](#), Director, Neighborhood Housing Services of Greater Cleveland
- [Ms. Nathalie Martin](#), University of New Mexico School of Law

### Senate Finance Committee

[Hearing on Trade Policy Agenda](#) – Like the House Ways & Means Committee, the SFC has a hearing this week with U.S. Trade Representative Michael Froman to discuss President Obama's 2014 Trade Policy Agenda. The hearing takes place this Thursday at 2:00 p.m.

## The Administration

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Last week, the President [traveled to Europe](#) and [Saudi Arabia](#) to meet with world leaders and discuss a variety of topics, most notably the crisis in the Ukraine. On the domestic front, the President has continued his focus on [raising the minimum wage](#) and encouraging people to [sign up for health care](#) under the Affordable Care Act.

### IRS Guidance That Bitcoin Is Property

One of the more interesting things to happen last week was that the [IRS issued a notice providing answers](#) to frequently asked questions (FAQs) on virtual currency, such as bitcoin. The guidance makes clear that bitcoin and other digital currencies will be treated as property and not as currency by the IRS, thereby imposing significant taxes and recordkeeping requirements upon holders of bitcoin.

### FSOC Hearing on Asset Management Industry on May 19

The Financial Stability Oversight Council announced that they will be [holding a public conference](#) on the asset management industry and its activities on May 19, 2014 in the Cash Room at the Department of the Treasury. Panels will focus on an in-depth examination and discussion of targeted issues associated with asset management in order to further inform the work of the Council.

## Securities and Exchange Commission

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### Studies on Data and Academic Literature on Money Market Reform

The SEC's Division of Economic and Risk Analysis released four analyses on various issues relating to money market reform: [Analysis of Liquidity Cost During Crisis Periods](#); [Analysis of Government Money Market Fund Exposure to Non-Government Securities](#); [Analysis of Municipal Money Market Funds Exposure to Parents of Guarantors](#), and [Analysis of Demand and Supply of Safe Assets in the Economy](#).

These analyses examine (i) the spread between same-day buy and sell transaction prices for certain corporate bonds from Jan. 2, 2008 to Jan. 31, 2009; (ii) the extent of government money market fund exposure to non-government securities; (iii) academic literature reviewing recent evidence on the availability of "safe assets" in the U.S. and global economies; and (iv) the extent to which various types of money market funds are holding in their portfolios guarantees and demand features from a single institution.

### Cybersecurity Roundtable

On March 26, the SEC held its roundtable on the issues and challenges cybersecurity presents for market participants and public companies. A list of the panels and roundtable participants is [here](#), the biographies of the speakers are [here](#), and a video of the webinar is [here](#).

## Commodity Futures Trading Commission (CFTC)

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### CFTC to Host Public Roundtable on End-Users – April 3

The CFTC announced that it will be holding a public roundtable this Thursday [to discuss issues concerning end-users and the Dodd-Frank Act](#). The roundtable will consist of three panels discussing (i) the obligations of end-users under Reg 1.35 concerning recordkeeping for commodity interest and related cash or forward transactions; (ii) the appropriate regulatory treatment of forward contracts with embedded volumetric optionality; and (iii) the appropriate regulatory treatment for purposes of the \$25 million (special entity) *de minimis* threshold for swap dealing to government-owned electric utilities. An agenda is [here](#).

### Public Roundtable Held on Risk Management by Commodity Pool Operators

Earlier in the month, the CFTC held a public roundtable [to discuss risk management practices by Commodity Pool Operators](#). The roundtable focused on the use of risk management procedures in the

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operation of various types of commodity pools, including registered investment companies, public commodity pools, private funds, and funds of funds. Discussion will include risk management controls relating to investment risk, operational risk, and compliance or regulatory risk. An agenda for the roundtable is [here](#), a list of participants is [here](#), and a link to a video of the roundtable is [here](#).

### Weekly Swaps Report

Here is a link to the CFTC's [Weekly Swaps Report](#) for the week ending March 14, 2014. The weekly report provides a detailed view of the swaps marketplace, covering the interest rate and credit asset classes that comprise about 90% of the approximately \$400 trillion swaps market. The report includes the gross notional outstanding value, the weekly transactions measured by dollar volume, and the weekly transactions measured by ticket volume.

## Association for Corporate Growth (ACG)

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### InterGrowth 2014

Registration has opened for [InterGrowth 2014](#), which will be held April 28 – 30, 2014 at the Aria Hotel in Las Vegas. To register online for InterGrowth, click [here](#). A list of the participants in the CEO panel at InterGrowth is [here](#), and a list of capital providers that are attending is [here](#).

### 2014 Policy Agenda

ACG released its [2014 policy agenda](#), which includes the organization's legislative and regulatory priorities. Top legislative priorities include H.R. 1105 (private equity fund registration under IAA), H.R. 2274 (M&A broker legislation), and protecting deductibility of interest on corporate debt in case of comprehensive tax reform. Top regulatory issues include broker-dealer issues for private equity funds, JOBS Act implementation, and improving the efficiency of SEC examinations.

## Private Equity Growth Capital Council (PEGCC)

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### Interview with Ken Mehlman, Chairman of the PEGCC

PEGCC Chairman Ken Mehlman [was interviewed](#) by David Toll, publisher of *Buyouts*, on a number of issues relating to the regulatory environment for private equity funds.

## Managed Funds Association (MFA)

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### Presentation on How Hedge Funds Count Their Assets

The Managed Funds Association's Hedge Fund Fundamentals released its latest educational resource, [How Hedge Funds Count Their Assets](#). The presentation serves as a basic introduction to how hedge funds calculate their assets. It also explains the new method of calculation used by the Securities and Exchange Commission, called Regulatory Assets Under Management (RAUM).

## U.S. Chamber of Commerce

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### 8<sup>th</sup> Annual Capital Markets Summit

The Chamber's [Center for Capital Markets Competitiveness](#) held its eighth annual Capital Markets Summit earlier in the month. The agenda for the Summit is [here](#) and a webcast of the conference is [here](#). The CCMC Summit featured the release of the updated [Regulatory Reform Report Card](#), which evaluates the progress being made by regulators and policymakers to achieve modern, well-regulated, fair, transparent, and vibrant capital markets.

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## **FAR Agenda 2014**

The U.S. Chamber of Commerce's Center for Capital Markets Competitiveness released its [Fix. Add. Replace \(FAR\) Agenda for 2014](#) outlining areas of concern that still need to be addressed from the 2010 Dodd-Frank Act. The document contains a very good overview of areas of industry concern regarding a broad range of issues relating to Dodd-Frank, including several relevant to private funds, such as reforming the Financial Stability Oversight Counsel (FSOC) and the designation process, improving the Office of Financial Research (OFR), fixing the Volcker Rule, and ensuring agency coordination regarding the imposition of a fiduciary standard for advisers for individual retirement accounts.

## **Miscellaneous**

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### **Report on Shareholder Activism and M&A Market**

Global consulting firm FTI Consulting [released a report](#) consisting of in-depth interviews among activist investors to gauge their views on shareholder activism in 2014. The views from the study indicate that 89 percent of activists believe that 2014 will see an overall increase in merger & acquisition activism. Forty-five% of the activists surveyed also thought that M&A activism would have the largest increase in activity in 2014 over other forms of shareholder activism.

### **Better Markets Financial Reform Newsletter**

Financial reform group Better Markets released its [March 28, 2014 newsletter](#) with links to several news stories as well as Better Markets' recent media coverage.

### **Coalition for Derivatives End User Study on Impact of Margin Requirement**

The Chamber's Coalition for Derivatives End Users [released a study](#) detailing the impact that a margin requirement could have on end-users of the derivatives who use derivatives to hedge against underlying commercial risk. The survey found that (i) 86% of companies indicate that government-imposed margin requirements would adversely impact business investment, acquisitions, R&D, and job creation; (ii) the median respondent would need \$125 million to fully collateralize its over-the-counter derivatives transactions; (iii) four out of five respondents say that a margin requirement will impact capital expenditures, with 37% noting the impact will be "significant;" and (iv) 91% say that a margin requirement will alter their risk-mitigating hedging strategies.

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