

## 10-045 Disclosure of the Use of Placement Agents

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### Purpose

This Policy sets forth the circumstances under which the State Board of Administration (SBA) shall require the disclosure of the use of Placement Agents in connection with SBA investments in or through External Investment Managers. This Policy is intended to apply broadly to all of the types of investment partners with whom the SBA does business, including the general partners, investment managers and sponsors of hedge funds, private equity funds, limited liability entities, and real estate funds, as well as investment managers (whether through a separate account or commingled trust) retained pursuant to a contract.

This Policy applies to all agreements with External Investment Managers that are entered into after the date this Policy is adopted. This Policy also applies to existing agreements with External Investment Managers if, after the date this Policy is adopted, there is any increased commitment of funds by the SBA (excluding rebalancing and capital calls executed in the normal course of business) pursuant to the existing agreement as of the date of this Policy or there is an amendment to the substantive terms of an existing agreement providing for an increase in the fees or compensation payable to the External Investment Manager (including an extension of the term if the extension will result in an increase in fees or compensation). For clarification, but without limitation, this policy does not apply to (i) elections under “most favored nation” provisions of an existing agreement, (ii) consents of advisory committees pursuant to provisions of an existing agreement (even if the SBA is a member of such advisory committee), (iii) routine SBA approvals of activities contemplated within an existing agreement, which do not require a further amendment or modification of the existing agreement, or (iv) any other amendment, modification or implementation of the terms of an existing agreement, except as expressly set forth in the previous sentence.

### Policy

**It is the policy of the Executive Director & CIO of the State Board of Administration (SBA) that:**

All External Investment Managers must completely, accurately and timely disclose all Placement Agent relationships, including the compensation paid by the External Investment Managers to such Placement Agents.

### Background and Implementation

#### Definitions

“External Investment Manager”: A person or entity that has the authority and/or discretion to invest or manage either the assets of the SBA or the assets of any commingled vehicle or limited liability entity in which the SBA invests.

“Placement Agent”: Any third-party intermediary that is directly or indirectly hired, used, retained, compensated or otherwise given anything having any monetary value or benefit, tangible or intangible, by an External Investment Manager to assist the External Investment Manager in securing investment commitments or investment management business from the SBA. For the purposes of this policy, but

except as set forth in the following sentence, the term "Placement Agent" includes, but is not limited to, all lobbyists, solicitors, brokers, finders, third-party marketers, real estate brokers soliciting investments in a real estate joint venture, or any other entities or persons engaged by an External Investment Manager and/or its affiliates, directly or indirectly for the purpose of marketing and/or securing investment commitments or other investment management business from the SBA. Notwithstanding the foregoing, the term "Placement Agent" shall not include (i) any natural person who is an employee, officer, director or partner of an External Investment Manager or (ii) a licensed real estate or mortgage broker acting in the capacity of (a) marketing real property to be owned or sold by an SBA joint venture or an SBA-controlled title holding entity or (b) placing debt secured by such real property.

#### Disclosure Requirements

All External Investment Managers must provide the following information (the "Placement Agent Information Disclosure") to the SBA's Chief Risk & Compliance Officer (CRCO) prior to contract execution (relating to both an initial and any subsequent additional investment) with the SBA:

- a) A statement whether the External Investment Manager, or any of its principals, employees, agents or affiliates has compensated or agreed to compensate, directly or indirectly, any person or entity to act as a Placement Agent in connection with any investment by the SBA, and if so, the name of the Placement Agent.
- b) A statement disclosing whether any Placement Agent has compensated or agreed to compensate, directly or indirectly, any third party (including a sub-contractor) to solicit an investment by the SBA or who is paid based upon an investment commitment by the SBA ("Third Party Placement Agent").
- c) A description of any and all compensation of any kind provided or agreed to be provided to a Placement Agent, including the nature, timing and value thereof. Compensation to Placement Agents shall include compensation to Third Party Placement Agents who are retained in order to solicit an investment from the SBA or who are paid based upon investment commitments secured by such third parties.
- d) A resume for each officer, partner or principal of the Placement Agent and any Third Party Placement Agent, if applicable, soliciting the SBA in connection with any investment, detailing the person's education, professional designations, regulatory licenses and investment and work experience.
- e) A description of the services to be performed by the Placement Agent (including whether the nature of the services are either ministerial or influential) and a statement as to whether the Placement Agent is utilized by the External Investment Manager with all prospective clients or only with a subset of the External Investment Manager's prospective clients, and if the Placement Agent has retained a Third Party Placement Agent, a description of the actions taken by the Placement Agent to monitor and supervise the conduct of the Third Party Placement Agent in connection with a potential investment by the SBA.
- f) A statement confirming that the Placement Agent and any Third Party Placement Agent, if applicable, is registered with the SEC or the Financial Industry Regulatory Association or a similar regulatory body (which must be disclosed) in a country other than the United States, or with respect to a real estate broker soliciting an investment in a real estate joint venture, a statement confirming that the Placement Agent and any Third Party Placement Agent, if applicable, holds a valid real estate brokerage license or other license as may be required by

law to serve as a Placement Agent in the transaction.

#### SBA Investment Staff Responsibilities

Asset class Senior Investment Officers (SIOs) shall provide External Investment Managers with a copy of this Policy at the time that due diligence in connection with a prospective investment or engagement begins.

SIOs shall confirm that the Placement Agent Information Disclosure has been received by the CRCO and is in good form prior to the completion of due diligence and any recommendation to proceed with the engagement of the External Investment Manager or the decision to make any investment.

#### Registration Requirements

Placement Agents and Third Party Placement Agents, if any, must be registered with the Securities and Exchange Commission or the Financial Industry Regulatory Association, or any similar regulatory agency in a country other than the United States, or with respect to an investment in a real estate joint venture, must be licensed as a real estate broker or other licensee as may be necessary by law to act as a Placement Agent in the transaction as a minimum condition of being allowed to work with the SBA in connection with an investment in or through an External Investment Manager. This minimum requirement would preclude Placement Agents, including Third Party Placement Agents, from representing External Investment Managers if they are not registered with the SEC, FINRA or any similar regulatory agency in a country other than the U.S., or are not properly licensed as a real estate broker or other licensee as may be necessary by law to act as a Placement Agent in connection with an investment in a real estate joint venture.

#### Contractual Requirements

For new contracts, the SBA shall require in the final written agreement between the SBA and the External Investment Manager the following (or substantively similar language in the reasonable discretion of the General Counsel's Office): (1) the External Investment Manager shall be solely responsible for, and the SBA shall not pay directly or ultimately be allocated economically, any fees, compensation or expenses for any Placement Agent used by the External Investment Manager; and (2) the External Investment Manager shall represent and warrant that there is no misrepresentation, omission or inaccuracy in the Placement Agent Information Disclosure or any attestation related to the Placement Agent Information Disclosure.

Amendments to existing contracts as of the effective date of the Policy will be evaluated on a case-by-case basis to determine whether this Policy applies to such amendment (as more particularly described above in "Purpose"). If so, the SBA will request the Placement Agent disclosures set forth above prior to execution of such amendments.

#### Violations

The CRCO shall report material violations of this policy to the Executive Director & CIO and Deputy Executive Director as soon as practical after discovery.

## **Compliance**

The asset class SIOs and CRCO are assigned primary responsibility for compliance with this policy. The asset class SIOs and CRCO are responsible for instructing and counseling their staff on the requirements

of this Policy and ensuring that departmental policies and guidelines conform to this Policy.

The CRCO may develop additional procedures to implement this policy and shall maintain sufficient documentation to demonstrate compliance with this policy.

Risk Management and Compliance may review and test compliance with this policy as deemed necessary.