

1 **TITLE IV—REGULATION OF AD-**
2 **VISERS TO HEDGE FUNDS**
3 **AND OTHERS**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Private Fund Invest-
6 ment Advisers Registration Act of 2010”.

7 **SEC. 402. DEFINITIONS.**

8 (a) INVESTMENT ADVISERS ACT OF 1940 DEFINI-
9 TIONS.—Section 202(a) of the Investment Advisers Act of
10 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the
11 end the following:

12 “(29) The term ‘private fund’ means an issuer
13 that would be an investment company, as defined in
14 section 3 of the Investment Company Act of 1940
15 (15 U.S.C. 80a–3), but for section 3(c)(1) or 3(c)(7)
16 of that Act.

17 “(30) The term ‘foreign private adviser’ means
18 any investment adviser who—

19 “(A) has no place of business in the
20 United States;

21 “(B) has, in total, fewer than 15 clients
22 and investors in the United States in private
23 funds advised by the investment adviser;

1 “(C) has aggregate assets under manage-
2 ment attributable to clients in the United
3 States and investors in the United States in
4 private funds advised by the investment adviser
5 of less than \$25,000,000, or such higher
6 amount as the Commission may, by rule, deem
7 appropriate in accordance with the purposes of
8 this title; and

9 “(D) neither—

10 “(i) holds itself out generally to the
11 public in the United States as an invest-
12 ment adviser; nor

13 “(ii) acts as—

14 “(I) an investment adviser to any
15 investment company registered under
16 the Investment Company Act of 1940;
17 or

18 “(II) a company that has elected
19 to be a business development company
20 pursuant to section 54 of the Invest-
21 ment Company Act of 1940 (15
22 U.S.C. 80a-53), and has not with-
23 drawn its election.”.

24 (b) OTHER DEFINITIONS.—As used in this title, the
25 terms “investment adviser” and “private fund” have the

1 same meanings as in section 202 of the Investment Advis-
2 ers Act of 1940, as amended by this title.

3 **SEC. 403. ELIMINATION OF PRIVATE ADVISER EXEMPTION;**
4 **LIMITED EXEMPTION FOR FOREIGN PRIVATE**
5 **ADVISERS; LIMITED INTRASTATE EXEMP-**
6 **TION.**

7 Section 203(b) of the Investment Advisers Act of
8 1940 (15 U.S.C. 80b–3(b)) is amended—

9 (1) in paragraph (1), by inserting “, other than
10 an investment adviser who acts as an investment ad-
11 viser to any private fund,” before “all of whose”;

12 (2) by striking paragraph (3) and inserting the
13 following:

14 “(3) any investment adviser that is a foreign
15 private adviser;” and

16 (3) in paragraph (5), by striking “or” at the
17 end;

18 (4) in paragraph (6)—

19 (A) by striking “any investment adviser”
20 and inserting “(A) any investment adviser”;

21 (B) by redesignating subparagraphs (A)
22 and (B) as clauses (i) and (ii), respectively; and

23 (C) in clause (ii) (as so redesignated), by
24 striking the period at the end and inserting “;
25 or”; and

1 (D) by adding at the end the following:

2 “(B) any investment adviser that is registered with
3 the Commodity Futures Trading Commission as a com-
4 modity trading advisor and advises a private fund, pro-
5 vided that, if after the date of enactment of the Investor
6 Protection and Securities Reform Act of 2010, the busi-
7 ness of the advisor should become predominately the provi-
8 sion of securities-related advice, then such adviser shall
9 register with the Commission.”.

10 (5) by adding at the end the following:

11 “(7) any investment adviser, other than any en-
12 tity that has elected to be regulated or is regulated
13 as a business development company pursuant to sec-
14 tion 54 of the Investment Company Act of 1940 (15
15 U.S.C. 80a–54), who solely advises—

16 “(A) small business investment companies
17 that are licensees under the Small Business In-
18 vestment Act of 1958;

19 “(B) entities that have received from the
20 Small Business Administration notice to pro-
21 ceed to qualify for a license as a small business
22 investment company under the Small Business
23 Investment Act of 1958, which notice or license
24 has not been revoked; or

1 “(C) applicants that are affiliated with 1
2 or more licensed small business investment
3 companies described in subparagraph (A) and
4 that have applied for another license under the
5 Small Business Investment Act of 1958, which
6 application remains pending.”.

7 **SEC. 404. COLLECTION OF SYSTEMIC RISK DATA; REPORTS;**
8 **EXAMINATIONS; DISCLOSURES.**

9 Section 204 of the Investment Advisers Act of 1940
10 (15 U.S.C. 80b-4) is amended—

11 (1) by redesignating subsections (b) and (c) as
12 subsections (c) and (d), respectively; and

13 (2) by inserting after subsection (a) the fol-
14 lowing:

15 “(b) RECORDS AND REPORTS OF PRIVATE FUNDS.—

16 “(1) IN GENERAL.—The Commission may re-
17 quire any investment adviser registered under this
18 title—

19 “(A) to maintain such records of, and file
20 with the Commission such reports regarding,
21 private funds advised by the investment adviser,
22 as necessary and appropriate in the public in-
23 terest and for the protection of investors, or for
24 the assessment of systemic risk by the Finan-

1 cial Stability Oversight Council (in this sub-
2 section referred to as the ‘Council’); and

3 “(B) to provide or make available to the
4 Council those reports or records or the informa-
5 tion contained therein.

6 “(2) TREATMENT OF RECORDS.—The records
7 and reports of any private fund to which an invest-
8 ment adviser registered under this title provides in-
9 vestment advice shall be deemed to be the records
10 and reports of the investment adviser.

11 “(3) REQUIRED INFORMATION.—The records
12 and reports required to be maintained by an invest-
13 ment adviser and subject to inspection by the Com-
14 mission under this subsection shall include, for each
15 private fund advised by the investment adviser, a de-
16 scription of—

17 “(A) the amount of assets under manage-
18 ment and use of leverage, including off-balance-
19 sheet leverage;

20 “(B) counterparty credit risk exposure;

21 “(C) trading and investment positions;

22 “(D) valuation policies and practices of the
23 fund;

24 “(E) types of assets held;

1 “(F) side arrangements or side letters,
2 whereby certain investors in a fund obtain more
3 favorable rights or entitlements than other in-
4 vestors;

5 “(G) trading practices; and

6 “(H) such other information as the Com-
7 mission, in consultation with the Council, deter-
8 mines is necessary and appropriate in the pub-
9 lic interest and for the protection of investors
10 or for the assessment of systemic risk, which
11 may include the establishment of different re-
12 porting requirements for different classes of
13 fund advisers, based on the type or size of pri-
14 vate fund being advised.

15 “(4) MAINTENANCE OF RECORDS.—An invest-
16 ment adviser registered under this title shall main-
17 tain such records of private funds advised by the in-
18 vestment adviser for such period or periods as the
19 Commission, by rule, may prescribe as necessary and
20 appropriate in the public interest and for the protec-
21 tion of investors, or for the assessment of systemic
22 risk.

23 “(5) FILING OF RECORDS.—The Commission
24 shall issue rules requiring each investment adviser to
25 a private fund to file reports containing such infor-

1 mation as the Commission deems necessary and ap-
2 propriate in the public interest and for the protec-
3 tion of investors or for the assessment of systemic
4 risk.

5 “(6) EXAMINATION OF RECORDS.—

6 “(A) PERIODIC AND SPECIAL EXAMINA-
7 TIONS.—The Commission—

8 “(i) shall conduct periodic inspections
9 of the records of private funds maintained
10 by an investment adviser registered under
11 this title in accordance with a schedule es-
12 tablished by the Commission; and

13 “(ii) may conduct at any time and
14 from time to time such additional, special,
15 and other examinations as the Commission
16 may prescribe as necessary and appro-
17 priate in the public interest and for the
18 protection of investors, or for the assess-
19 ment of systemic risk.

20 “(B) AVAILABILITY OF RECORDS.—An in-
21 vestment adviser registered under this title shall
22 make available to the Commission any copies or
23 extracts from such records as may be prepared
24 without undue effort, expense, or delay, as the

1 Commission or its representatives may reason-
2 ably request.

3 “(7) INFORMATION SHARING.—

4 “(A) IN GENERAL.—The Commission shall
5 make available to the Council copies of all re-
6 ports, documents, records, and information filed
7 with or provided to the Commission by an in-
8 vestment adviser under this subsection as the
9 Council may consider necessary for the purpose
10 of assessing the systemic risk posed by a pri-
11 vate fund.

12 “(B) CONFIDENTIALITY.—The Council
13 shall maintain the confidentiality of information
14 received under this paragraph in all such re-
15 ports, documents, records, and information, in
16 a manner consistent with the level of confiden-
17 tiality established for the Commission pursuant
18 to paragraph (8). The Council shall be exempt
19 from section 552 of title 5, United States Code,
20 with respect to any information in any report,
21 document, record, or information made avail-
22 able, to the Council under this subsection.”.

23 “(8) COMMISSION CONFIDENTIALITY OF RE-
24 PORTS.—Notwithstanding any other provision of
25 law, the Commission may not be compelled to dis-

1 close any report or information contained therein re-
2 quired to be filed with the Commission under this
3 subsection, except that nothing in this subsection
4 authorizes the Commission—

5 “(A) to withhold information from Con-
6 gress, upon an agreement of confidentiality; or

7 “(B) prevent the Commission from com-
8 plying with—

9 “(i) a request for information from
10 any other Federal department or agency or
11 any self-regulatory organization requesting
12 the report or information for purposes
13 within the scope of its jurisdiction; or

14 “(ii) an order of a court of the United
15 States in an action brought by the United
16 States or the Commission.

17 “(9) OTHER RECIPIENTS CONFIDENTIALITY.—
18 Any department, agency, or self-regulatory organiza-
19 tion that receives reports or information from the
20 Commission under this subsection shall maintain the
21 confidentiality of such reports, documents, records,
22 and information in a manner consistent with the
23 level of confidentiality established for the Commis-
24 sion under paragraph (8).

25 “(10) PUBLIC INFORMATION EXCEPTION.—

1 “(A) IN GENERAL.—The Commission, the
2 Council, and any other department, agency, or
3 self-regulatory organization that receives infor-
4 mation, reports, documents, records, or infor-
5 mation from the Commission under this sub-
6 section, shall be exempt from the provisions of
7 section 552 of title 5, United States Code, with
8 respect to any such report, document, record, or
9 information. Any proprietary information of an
10 investment adviser ascertained by the Commis-
11 sion from any report required to be filed with
12 the Commission pursuant to this subsection
13 shall be subject to the same limitations on pub-
14 lic disclosure as any facts ascertained during an
15 examination, as provided by section 210(b) of
16 this title.

17 “(B) PROPRIETARY INFORMATION.—For
18 purposes of this paragraph, proprietary infor-
19 mation includes sensitive, non-public informa-
20 tion regarding—

21 “(i) the investment or trading strate-
22 gies of the investment adviser;

23 “(ii) analytical or research methodolo-
24 gies;

25 “(iii) trading data;

1 “(iv) computer hardware or software
2 containing intellectual property; and

3 “(v) any additional information that
4 the Commission determines to be propri-
5 etary.

6 “(11) ANNUAL REPORT TO CONGRESS.—The
7 Commission shall report annually to Congress on
8 how the Commission has used the data collected
9 pursuant to this subsection to monitor the markets
10 for the protection of investors and the integrity of
11 the markets.”.

12 **SEC. 405. DISCLOSURE PROVISION AMENDMENT.**

13 Section 210(c) of the Investment Advisers Act of
14 1940 (15 U.S.C. 80b–10(c)) is amended by inserting be-
15 fore the period at the end the following: “or for purposes
16 of assessment of potential systemic risk”.

17 **SEC. 406. CLARIFICATION OF RULEMAKING AUTHORITY.**

18 Section 211 of the Investment Advisers Act of 1940
19 (15 U.S.C. 80b–11) is amended—

20 (1) in subsection (a), by inserting before the pe-
21 riod at the end of the first sentence the following:
22 “, including rules and regulations defining technical,
23 trade, and other terms used in this title, except that
24 the Commission may not define the term ‘client’ for
25 purposes of paragraphs (1) and (2) of section 206

1 to include an investor in a private fund managed by
2 an investment adviser, if such private fund has en-
3 tered into an advisory contract with such adviser”;
4 and

5 (2) by adding at the end the following:

6 “(e) DISCLOSURE RULES ON PRIVATE FUNDS.—The
7 Commission and the Commodity Futures Trading Com-
8 mission shall, after consultation with the Council but not
9 later than 12 months after the date of enactment of the
10 Private Fund Investment Advisers Registration Act of
11 2010, jointly promulgate rules to establish the form and
12 content of the reports required to be filed with the Com-
13 mission under subsection 204(b) and with the Commodity
14 Futures Trading Commission by investment advisers that
15 are registered both under this title and the Commodity
16 Exchange Act (7 U.S.C. 1a et seq.).”.

17 **SEC. 407. EXEMPTION OF AND REPORTING BY VENTURE**
18 **CAPITAL FUND ADVISERS.**

19 Section 203 of the Investment Advisers Act of 1940
20 (15 U.S.C. 80b–3) is amended by adding at the end the
21 following:

22 “(l) EXEMPTION OF VENTURE CAPITAL FUND AD-
23 VISERS.—No investment adviser that acts as an invest-
24 ment adviser solely to 1 or more venture capital funds
25 shall be subject to the registration requirements of this

1 title with respect to the provision of investment advice re-
2 lating to a venture capital fund. Not later than 1 year
3 after the date of enactment of this subsection, the Com-
4 mission shall issue final rules to define the term ‘venture
5 capital fund’ for purposes of this subsection. The Commis-
6 sion shall require such advisers to maintain such records
7 and provide to the Commission such annual or other re-
8 ports as the Commission determines necessary or appro-
9 priate in the public interest or for the protection of inves-
10 tors.”.

11 **SEC. 408. EXEMPTION OF AND REPORTING BY CERTAIN**
12 **PRIVATE FUND ADVISERS.**

13 Section 203 of the Investment Advisers Act of 1940
14 (15 U.S.C. 80b–3) is amended by adding at the end the
15 following:

16 “(m) EXEMPTION OF AND REPORTING BY CERTAIN
17 PRIVATE FUND ADVISERS.—

18 “(1) IN GENERAL.—The Commission shall pro-
19 vide an exemption from the registration require-
20 ments under this section to any investment adviser
21 of private funds, if each of such investment adviser
22 acts solely as an adviser to private funds and has as-
23 sets under management in the United States of less
24 than \$150,000,000.

1 “(2) REPORTING.—The Commission shall re-
2 quire investment advisers exempted by reason of this
3 subsection to maintain such records and provide to
4 the Commission such annual or other reports as the
5 Commission determines necessary or appropriate in
6 the public interest or for the protection of investors.

7 “(n) REGISTRATION AND EXAMINATION OF MID-
8 SIZED PRIVATE FUND ADVISERS.—In prescribing regula-
9 tions to carry out the requirements of this section with
10 respect to investment advisers acting as investment advis-
11 ers to mid-sized private funds, the Commission shall take
12 into account the size, governance, and investment strategy
13 of such funds to determine whether they pose systemic
14 risk, and shall provide for registration and examination
15 procedures with respect to the investment advisers of such
16 funds which reflect the level of systemic risk posed by such
17 funds.”.

18 **SEC. 409. FAMILY OFFICES.**

19 (a) IN GENERAL.—Section 202(a)(11) of the Invest-
20 ment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)) is
21 amended by striking “or (G)” and inserting the following:
22 “; (G) any family office, as defined by rule, regulation,
23 or order of the Commission, in accordance with the pur-
24 poses of this title; or (H)”.

1 (b) RULEMAKING.—The rules, regulations, or orders
2 issued by the Commission pursuant to section
3 202(a)(11)(G) of the Investment Advisers Act of 1940, as
4 added by this section, regarding the definition of the term
5 “family office” shall provide for an exemption that—

6 (1) is consistent with the previous exemptive
7 policy of the Commission, as reflected in exemptive
8 orders for family offices in effect on the date of en-
9 actment of this Act, and the grandfathering provi-
10 sions in paragraph (3);

11 (2) recognizes the range of organizational, man-
12 agement, and employment structures and arrange-
13 ments employed by family offices; and

14 (3) does not exclude any person who was not
15 registered or required to be registered under the In-
16 vestment Advisers Act on January 1, 2010 from the
17 definition of the term “family office”, solely because
18 such person provides investment advice to, and was
19 engaged before January 1, 2010 in providing invest-
20 ment advice to—

21 (A) natural persons who, at the time of
22 their applicable investment, are officers, direc-
23 tors, or employees of the family office who—

24 (i) have invested with the family office
25 before January 1, 2010; and

1 (ii) are accredited investors, as de-
2 fined in Regulation D of the Commission
3 (or any successor thereto) under the Secu-
4 rities Act of 1933, or, as the Commission
5 may prescribe by rule, the successors-in-in-
6 terest thereto;

7 (B) any company owned exclusively and
8 controlled by members of the family of the fam-
9 ily office, or as the Commission may prescribe
10 by rule;

11 (C) any investment adviser registered
12 under the Investment Adviser Act of 1940 that
13 provides investment advice to the family office
14 and who identifies investment opportunities to
15 the family office, and invests in such trans-
16 actions on substantially the same terms as the
17 family office invests, but does not invest in
18 other funds advised by the family office, and
19 whose assets as to which the family office di-
20 rectly or indirectly provides investment advice
21 represent, in the aggregate, not more than 5
22 percent of the value of the total assets as to
23 which the family office provides investment ad-
24 vice.

1 (c) ANTIFRAUD AUTHORITY.—A family office that
2 would not be a family office, but for subsection (b)(3),
3 shall be deemed to be an investment adviser for the pur-
4 poses of paragraphs (1), (2) and (4) of section 206 of the
5 Investment Advisers Act of 1940.

6 **SEC. 410. STATE AND FEDERAL RESPONSIBILITIES; ASSET**
7 **THRESHOLD FOR FEDERAL REGISTRATION**
8 **OF INVESTMENT ADVISERS.**

9 Section 203A(a) of the of the Investment Advisers
10 Act of 1940 (15 U.S.C. 80b–3a(a)) is amended—

11 (1) by redesignating paragraph (2) as para-
12 graph (3); and

13 (2) by inserting after paragraph (1) the fol-
14 lowing:

15 “(2) TREATMENT OF MID-SIZED INVESTMENT
16 ADVISERS.—

17 “(A) IN GENERAL.—No investment adviser
18 described in subparagraph (B) shall register
19 under section 203, unless the investment ad-
20 viser is an adviser to an investment company
21 registered under the Investment Company Act
22 of 1940, or a company which has elected to be
23 a business development company pursuant to
24 section 54 of the Investment Company Act of
25 1940, and has not withdrawn the election, ex-

1 cept that, if by effect of this paragraph an in-
2 vestment adviser would be required to register
3 with 15 or more States, then the adviser may
4 register under section 203.

5 “(B) COVERED PERSONS.—An investment
6 adviser described in this subparagraph is an in-
7 vestment adviser that—

8 “(i) is required to be registered as an
9 investment adviser with the securities com-
10 missioner (or any agency or office per-
11 forming like functions) of the State in
12 which it maintains its principal office and
13 place of business and, if registered, would
14 be subject to examination as an investment
15 adviser by any such commissioner, agency,
16 or office; and

17 “(ii) has assets under management
18 between—

19 “(I) the amount specified under
20 subparagraph (A) of paragraph (1),
21 as such amount may have been ad-
22 justed by the Commission pursuant to
23 that subparagraph; and

24 “(II) \$100,000,000, or such
25 higher amount as the Commission

1 may, by rule, deem appropriate in ac-
2 cordance with the purposes of this
3 title.”.

4 **SEC. 411. CUSTODY OF CLIENT ASSETS.**

5 The Investment Advisers Act of 1940 (15 U.S.C.
6 80b–1 et seq.) is amended by adding at the end the fol-
7 lowing new section:

8 **“SEC. 223. CUSTODY OF CLIENT ACCOUNTS.**

9 “An investment adviser registered under this title
10 shall take such steps to safeguard client assets over which
11 such adviser has custody, including, without limitation,
12 verification of such assets by an independent public ac-
13 countant, as the Commission may, by rule, prescribe.”.

14 **SEC. 412. COMPTROLLER GENERAL STUDY ON CUSTODY**
15 **RULE COSTS.**

16 The Comptroller General of the United States shall—

17 (1) conduct a study of—

18 (A) the compliance costs associated with
19 the current Securities and Exchange Commis-
20 sion rules 204–2 (17 C.F.R. Parts 275.204–2)
21 and rule 206(4)–2 (17 C.F.R. 275.206(4)–2)
22 under the Investment Advisers Act of 1940 re-
23 garding custody of funds or securities of clients
24 by investment advisers; and

1 (B) the additional costs if subsection
2 (b)(6) of rule 206(4)-2 (17 C.F.R. 275.206(4)-
3 2(b)(6)) relating to operational independence
4 were eliminated; and

5 (2) submit a report to the Committee on Bank-
6 ing, Housing, and Urban Affairs of the Senate and
7 the Committee on Financial Services of the House of
8 Representatives on the results of such study, not
9 later than 3 years after the date of enactment of
10 this Act.

11 **SEC. 413. ADJUSTING THE ACCREDITED INVESTOR STAND-**
12 **ARD.**

13 (a) IN GENERAL.—The Commission shall adjust any
14 net worth standard for an accredited investor, as set forth
15 in the rules of the Commission under the Securities Act
16 of 1933, so that the individual net worth of any natural
17 person, or joint net worth with the spouse of that person,
18 at the time of purchase, is more than \$1,000,000 (as such
19 amount is adjusted periodically by rule of the Commis-
20 sion), excluding the value of the primary residence of such
21 natural person, except that during the 4-year period that
22 begins on the date of enactment of this Act, any net worth
23 standard shall be \$1,000,000, excluding the value of the
24 primary residence of such natural person.

25 (b) REVIEW AND ADJUSTMENT.—

1 (1) INITIAL REVIEW AND ADJUSTMENT.—

2 (A) INITIAL REVIEW.—The Commission
3 may undertake a review of the definition of the
4 term “accredited investor”, as such term ap-
5 plies to natural persons, to determine whether
6 the requirements of the definition, excluding the
7 requirement relating to the net worth standard
8 described in subsection (a), should be adjusted
9 or modified for the protection of investors, in
10 the public interest, and in light of the economy.

11 (B) ADJUSTMENT OR MODIFICATION.—
12 Upon completion of a review under subpara-
13 graph (A), the Commission may, by notice and
14 comment rulemaking, make such adjustments
15 to the definition of the term “accredited inves-
16 tor”, excluding adjusting or modifying the re-
17 quirement relating to the net worth standard
18 described in subsection (a), as such term ap-
19 plies to natural persons, as the Commission
20 may deem appropriate for the protection of in-
21 vestors, in the public interest, and in light of
22 the economy.

23 (2) SUBSEQUENT REVIEWS AND ADJUST-
24 MENT.—

1 (A) SUBSEQUENT REVIEWS.—Not earlier
2 than 4 years after the date of enactment of this
3 Act, and not less frequently than once every 4
4 years thereafter, the Commission shall under-
5 take a review of the definition, in its entirety,
6 of the term “accredited investor”, as defined in
7 section 230.215 of title 17, Code of Federal
8 Regulations, or any successor thereto, as such
9 term applies to natural persons, to determine
10 whether the requirements of the definition
11 should be adjusted or modified for the protec-
12 tion of investors, in the public interest, and in
13 light of the economy.

14 (B) ADJUSTMENT OR MODIFICATION.—
15 Upon completion of a review under subpara-
16 graph (A), the Commission may, by notice and
17 comment rulemaking, make such adjustments
18 to the definition of the term “accredited inves-
19 tor”, as defined in section 230.215 of title 17,
20 Code of Federal Regulations, or any successor
21 thereto, as such term applies to natural per-
22 sons, as the Commission may deem appropriate
23 for the protection of investors, in the public in-
24 terest, and in light of the economy.

1 **SEC. 414. RULE OF CONSTRUCTION RELATING TO THE**
2 **COMMODITIES EXCHANGE ACT.**

3 The Investment Advisers Act of 1940 (15 U.S.C.
4 80b–1 et seq.) is further amended by adding at the end
5 the following new section:

6 **“SEC. 224. RULE OF CONSTRUCTION RELATING TO THE**
7 **COMMODITIES EXCHANGE ACT.**

8 “Nothing in this title shall relieve any person of any
9 obligation or duty, or affect the availability of any right
10 or remedy available to the Commodity Futures Trading
11 Commission or any private party, arising under the Com-
12 modity Exchange Act (7 U.S.C. 1 et seq.) governing com-
13 modity pools, commodity pool operators, or commodity
14 trading advisors.”.

15 **SEC. 415. GAO STUDY AND REPORT ON ACCREDITED INVES-**
16 **TORS.**

17 The Comptroller General of the United States shall
18 conduct a study on the appropriate criteria for deter-
19 mining the financial thresholds or other criteria needed
20 to qualify for accredited investor status and eligibility to
21 invest in private funds, and shall submit a report to the
22 Committee on Banking, Housing, and Urban Affairs of
23 the Senate and the Committee on Financial Services of
24 the House of Representatives on the results of such study
25 not later than 3 years after the date of enactment of this
26 Act.

1 **SEC. 416. GAO STUDY ON SELF-REGULATORY ORGANIZA-**
2 **TION FOR PRIVATE FUNDS.**

3 The Comptroller General of the United States shall—

4 (1) conduct a study of the feasibility of forming
5 a self-regulatory organization to oversee private
6 funds; and

7 (2) submit a report to the Committee on Bank-
8 ing, Housing, and Urban Affairs of the Senate and
9 the Committee on Financial Services of the House of
10 Representatives on the results of such study, not
11 later than 1 year after the date of enactment of this
12 Act.

13 **SEC. 417. COMMISSION STUDY AND REPORT ON SHORT**
14 **SELLING.**

15 (a) STUDIES.—The Division of Risk, Strategy, and
16 Financial Innovation of the Commission shall conduct—

17 (1) a study, taking into account current schol-
18 arship, on the state of short selling on national secu-
19 rities exchanges and in the over-the-counter markets,
20 with particular attention to the impact of recent rule
21 changes and the incidence of—

22 (A) the failure to deliver shares sold short;

23 or

24 (B) delivery of shares on the fourth day
25 following the short sale transaction; and

26 (2) a study of—

1 (A) the feasibility, benefits, and costs of
2 requiring reporting publicly, in real time short
3 sale positions of publicly listed securities, or, in
4 the alternative, reporting such short positions
5 in real time only to the Commission and the Fi-
6 nancial Industry Regulatory Authority; and

7 (B) the feasibility, benefits, and costs of
8 conducting a voluntary pilot program in which
9 public companies will agree to have all trades of
10 their shares marked “short”, “market maker
11 short”, “buy”, “buy-to-cover”, or “long”, and
12 reported in real time through the Consolidated
13 Tape.

14 (b) REPORTS.—The Commission shall submit a re-
15 port to the Committee on Banking, Housing, and Urban
16 Affairs of the Senate and the Committee on Financial
17 Services of the House of Representatives—

18 (1) on the results of the study required under
19 subsection (a)(1), including recommendations for
20 market improvements, not later than 2 years after
21 the date of enactment of this Act; and

22 (2) on the results of the study required under
23 subsection (a)(2), not later than 1 year after the
24 date of enactment of this Act.

1 **SEC. 418. QUALIFIED CLIENT STANDARD.**

2 Section 205(e) of the Investment Advisers Act of
3 1940 (15 U.S.C. 80b-5(e)) is amended by adding at the
4 end the following: “With respect to any factor used in any
5 rule or regulation by the Commission in making a deter-
6 mination under this subsection, if the Commission uses
7 a dollar amount test in connection with such factor, such
8 as a net asset threshold, the Commission shall, by order,
9 not later than 1 year after the date of enactment of the
10 Private Fund Investment Advisers Registration Act of
11 2010, and every 5 years thereafter, adjust for the effects
12 of inflation on such test. Any such adjustment that is not
13 a multiple of \$100,000 shall be rounded to the nearest
14 multiple of \$100,000.”.

15 **SEC. 419. TRANSITION PERIOD.**

16 Except as otherwise provided in this title, this title
17 and the amendments made by this title shall become effec-
18 tive 1 year after the date of enactment of this Act, except
19 that any investment adviser may, at the discretion of the
20 investment adviser, register with the Commission under
21 the Investment Advisers Act of 1940 during that 1-year
22 period, subject to the rules of the Commission.