



February 26, 2010

Mr. Lawrence M. Schloss
Chief Investment Officer
Office of the Comptroller
City of New York
1 Centre Street
New York, NY 10007

Dear Mr. Schloss,

We are writing to you today on behalf of the Third Party Marketers Association (“3PM”). 3PM applauds the efforts of the NYC Office of the Comptroller to allow legitimate Placement Agents and Third Party Marketers who provide a value-added service to once again participate in the investment manager selection process for the NYC Retirement System.

Over the past year, 3PM and its members have worked tirelessly to differentiate the services offered by our members, who operate in a professional and ethical manner, from the unscrupulous few whose actions have tainted the entire industry. We have also tried to educate the industry as to what exactly it is that a Third Party Marketers does and to articulate that our role is much more expansive than that of an Introducing Agent, Lobbyist or Finder. While many don’t appreciate what it is that we do or understand the value we add to the investment process by assisting Pension Fund staffs and Emerging Managers who don’t have the resources to hire full time in-house resources in particular, we are truly appreciative of the fact that your staff is knowledgeable enough to recognize that Third Party Marketers do have a place in this industry and that investment managers are entitled to retain us for our services should they choose to.

3PM has long recognized the need for regulatory oversight and additional transparency in the financial industry and we believe that the investment process can be strengthened by mandating additional disclosure. We were very pleased to see that the City’s new rules included several requirements regarding the disclosure of important information. It was also refreshing to see that Comptroller Liu will not accept any campaign contributions from investment managers or their agents.

While we are in agreement with the majority of the new rules, we do have some concerns regarding two in particular. First, is the new rule that requires “Placement Agents and Marketers show that they have raised \$500 in at least two of the past three years from entities other than New York City pension funds.” While we understand that you are trying to establish criteria to discern legitimate Third Party Marketers from those who are not, we believe that the implementation of this rule will unfairly discriminate against small Third Party Marketing firms and eliminate them from the process. It will also discriminate against firms that are new to the industry, but may have Principals with a significant amount of industry experience.

As is true in many industries, Third Party Marketing firms can range from the very small to the very large. On one end of the spectrum you have the very large and established firms such as CSFB, Blackstone, and Merrill Lynch, to name a few. The industry also has a very large number of small firms who employ between one and five individuals. For the most part, it is these firms that make up the majority of 3PM's membership. From a pure numerical perspective, firms with more sales professionals will find it much easier to "raise \$500 million in at least two of the past three years" than a small firm with only 1 or 2 sales professionals might. This does not necessarily mean that the large firm is any better at its job, any more ethical or professional than the small Third Party Marketing firm.

It should also be noted that the Global economic crisis that has hurt many in the financial industry, has also impacted Third Party Marketers. In the past two years, the fund raising environment has been extremely difficult and has provided a number of challenges to Third Party Marketing firms of all shapes and sizes. Compared with previous years search activity in 2009 was down dramatically. Rather than allocating new capital, investors have had many other issues to deal with. Given this fact, many firms have not raised a dime, let alone the \$500 million in two out of three years (2007, 2008 and 2009) that are required to work with the NY Retirement System.

Many Third Party Marketers work with emerging managers which include new firms, as well as women and minority managers. Given this fact, there may not be an opportunity to raise enough capital to meet the criteria necessary to work with the NYC Pension Plans. In the alternative arena, a small manager may only come to market with a \$100-\$200 million fund, while managers offering products in the traditional asset classes may need two to three years to gain the critical mass required to grow assets to the \$200-\$300 million level. Given the City's rules it is more than likely that they will miss out on the opportunity to invest with several excellent firms because the Third Party Marketer the manager has hired could not meet the asset requirement.

Such a requirement would also prevent highly experienced marketers who are newly established in the Third Party Marketing industry from also working with NYC. Many of 3PM's member firms were started by professionals that worked for large, established entities in the industry, whether at investment management shops, Funds, banks, insurance companies or at Pension Plans. Given the Comptroller's rules, these new firms would not be able to bring the managers they are working with to the City for at least two years and assuming that they could raise the requisite amount of capital their first year in business.

Our second concern involves the requirement that Placement Agents and Third Party Marketers be registered with the SEC or FINRA. While 3PM is not opposed to regulatory oversight, we feel that the current proposal will unfairly remove Third Party Marketers who are working with Registered Investment Advisers offering products through separate accounts from the process. While Third Party Marketers working with Funds are required to be registered with FINRA, Third Party Marketers who are working with investment managers offering their services through separate accounts (and under the investment adviser rules) are not eligible to register with either the SEC or FINRA.

In order to register with the SEC, investment advisers must manage at least \$25 million in assets. Since Third Party Marketers do not manage money, they are restricted from such registration with the SEC. As such these Third Party Marketers are currently operating as State Registered Investment Advisers. To further complicate the matter, firms operating as State registered investment advisers many not be registered under FINRA unless they are also engaged in business activities that fall under the broker/dealer regulation and the purview of FINRA.

The current rule as written would prevent Third Party Marketers who are not registered with FINRA and who cannot register with the SEC from working with the City. This move could dramatically affect programs such as the Emerging Manager Program at NYC where Emerging Manager of Manager Platforms are hired and sub-advise assets to emerging investment managers in the areas of US and International Equity as well as Fixed Income, many of whom utilize the services of Third Party Marketers.

While we are all in agreement that change is necessary and we are pleased that NYC is working to allow Third Party Marketers to once again be involved in the process, we do believe that the current rules will cause some unforeseen and undesired consequences. 3PM would welcome an opportunity to sit down with you and the staff of the Comptroller's office to discuss our opinions in more detail.

Please feel free to contact Donna DiMaria at 212-209-3822 or by email at donna.dimaria@tesseractcapital.com or Frank Minard at 212 909 2685 or by email at fminard@xtcapital.com.

Regards,



Donna DiMaria
President
Third Party Marketers Association



Frank Minard
Chair of the Strategy Committee
Third Party Marketers Association

About 3PM

3PM began in 1998. Today, the Association is comprised of more than 72 member firms. 3PM was formed to maintain a standard of excellence in the industry and to share information and ideas among independent sales and marketing firms. The Association helps to cultivate relationships and business opportunities among its members, and works to provide them with information and ongoing education about the investment management industry. 3PM's goal is to enhance our profession's standards, integrity and business practices. This is accomplished by advancing ongoing agendas in the areas of regulation and compliance as well as adherence to the highest standards and best practices utilized throughout the financial services industry.

A typical 3PM member firm consists of two to five highly experienced investment management marketing executives with, on average, 10+ years of experience of selling success in the institutional and/or retail distribution channels. The Association's members run the gamut in terms of the products they represent. Approximately 50% of the Association's members work with traditional separate account managers covering strategies such as domestic and international equity, as well as fixed income. In the alternative arena, Members represent fund products such as mutual funds, hedge funds, private equity, fund of funds and real estate. More than two thirds of 3PM's members offer both types of product offerings.

3PM member firms that work with traditional separate account managers are typically registered under the investment adviser rules with the States in which they solicit business. Since the Association's members do not manage money they generally are not eligible to register directly with the SEC. For the Association's members that work with Fund products, these firms are either registered with FINRA as broker/dealers or work as Registered Representatives of an established broker/dealer to offer securities. Regardless of the structure within which 3PM members operate, they do fall under the scrutiny of some regulatory authority.