

The background features a dark blue triangle on the left side, containing a faint, stylized line graph. The rest of the background is a light blue gradient with several glowing, multi-colored lines (pink, yellow, and light blue) that create a sense of motion and depth.

INVESTMENT  
MANAGEMENT

Regulatory &  
Compliance  
Calendar and  
Guidebook  
2024

WINSTON  
& STRAWN  
LLP

**As the new year begins, it is important for investment managers and other investment management professionals to review the array of regulatory requirements they are obligated to fulfill.**

We hope that this *Regulatory & Compliance Calendar and Guidebook 2024* and accompanying materials will be a useful tool for managing compliance requirements throughout the year.

# Regulatory & Compliance Calendar and Guidebook 2024

In assessing your 2024 compliance strategy, it is important to keep in mind not only individual requirements and best practices, including the new rules and amendments to the Private Fund Adviser Rules, but also the larger themes defining the regulatory and enforcement environment.

Investment managers should review these themes in light of operational and compliance challenges they have faced and how they have modified their compliance programs to adapt to these changes. In our view, the SEC continues to send four clear messages:

► **Transparency is a priority.** The SEC is quick to act in cases where there is a lack of required disclosure or a conflict of interest, and in cases where an investment manager made a material misrepresentation. Firms should endeavor to be scrupulously transparent in their arrangements and transactions.

► **Policies and procedures are just the start.** Firms need to have a solid infrastructure that translates policies and procedures into actions and behaviors. This includes controls, internal audit functions, and appropriate and timely escalation protocols. Moreover, firms must act on and follow policies and procedures in a way that reasonably ensures compliance with such policies and procedures and applicable law.

► **Compliance needs to be approached holistically.** Compliance procedures cannot be applied in a check-the-box fashion. Firms must implement a risk-based approach driven by thorough due diligence of clients, employees, and vendors.

► **All investment advisers are fiduciaries.** Under the Advisers Act, all investment advisers are fiduciaries. Generally, investment advisers owe their clients a fiduciary duty comprised of the duty of care and the duty of loyalty. The SEC views an investment adviser's fiduciary duty as important to its investor protection efforts. All investment advisers, regardless of whether they are registered with the SEC (or otherwise exempt from registration), should conduct all their activities in a manner that takes into account their fiduciary duties to clients.

Investment managers that follow a rigorous application of regulatory requirements while keeping an eye on big-picture trends will be well-positioned to avoid both the tangible and intangible costs that come with compliance shortfalls.

We look forward to working with you in the year ahead.

## CONTACT OUR TEAM

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## SECTION 1

# REGULATORY AND COMPLIANCE CALENDAR

### A FEW NOTES ON THE REGULATORY AND COMPLIANCE CALENDAR

This Regulatory and Compliance Calendar covers certain regulatory requirements applicable to all investment managers (including SEC-Registered Managers, Exempt Reporting Advisers, CPOs, and CTAs) and private funds. It does not cover CPO obligations with respect to CFTC Regulation 4.12 Pools, CFTC Regulation 4.13(a)(1) Pools, CFTC Regulation 4.13(a)(2) Pools, or CFTC Advisory 18-96 Pools. If an SEC-Registered Manager is also a CPO and/or a CTA, it must consider the requirements applicable to CPOs and/or CTAs discussed below, and vice versa. Similarly, if an Exempt Reporting Adviser is also a CPO and/or a CTA, it must consider the requirements applicable to CPOs and/or CTAs discussed below, and vice versa.

*The calendar assumes the fiscal year is the calendar year; a fiscal year other than the calendar year will require the deadlines of some of the listed actions to be adjusted. For deadlines that fall on non-business days or holidays, please check the relevant filing site or contact a member of the Winston team for guidance. Regulatory requirements without fixed deadlines are listed at the end of the calendar. A Glossary of defined terms is included in Section 3.*

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## JANUARY 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
January 10	<p>File amended SEC Form 13H with the SEC if any of the information contained in the Large Trader's immediately prior SEC Form 13H filing has become inaccurate for any reason.</p> <p>A Large Trader making this quarterly amendment filing may choose to satisfy its annual Form 13H amendment obligation (see calendar entry for February 14) by making the appropriate election.</p>	Person or entity that was a Large Trader of NMS Securities at any time during calendar year 2023
January 15 <sup>1</sup>	File (or, if previously filed, amend) SEC Form PF for the quarter ending December 31, 2023 with the SEC through the PFRD.	SEC-Registered Manager whose fiscal year is the calendar year and that was a Large Liquidity Fund Adviser during the third calendar quarter of 2023
January 26	If Final Statement (available January 2, 2024) from the IARD indicates that additional funds are due in connection with annual renewals, such funds must be available to the IARD on or prior to this date.	Exempt Reporting Adviser Investment Manager employing persons who are registered as Investment Adviser Representatives, or who are otherwise registered, with one or more states
January 30 <sup>2</sup>	Distribute monthly account statements for December 2023 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2023 CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2023

1. The deadline is still January 15, even though such date falls on a weekend. Consider filing with the SEC prior to January 15.
2. For purposes of this calendar, please note that on October 2, 2023, the CFTC proposed changes to Rule 4.7, which have not yet been adopted.

DEADLINE	ACTION	RESPONSIBLE PARTY
<b>January 30</b>	Distribute quarterly account statements for the quarter ending December 31, 2023 to pool participants.	<p>CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO: (i) has specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), or (ii) has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3) but such pool had net assets of \$500,000 or less as of the beginning of 2023</p> <p>CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of \$500,000 or less as of the beginning of 2023</p>
<b>January 30</b>	Obtain quarterly Transaction Report from each Access Person of the manager covering, at a minimum, all transactions during the fourth calendar quarter of 2023 involving a Reportable Security in which such Access Person had, or as a result of the transaction acquired, any direct or indirect Beneficial Ownership (subject to certain limited exceptions).	SEC-Registered Manager

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## FEBRUARY 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
February 14	File annual CFTC Form CTA-PR for the year ending December 31, 2023 (by filing NFA Form PR for the year ending December 31, 2023) with the NFA through EasyFile (CTA Filers).	CFTC-registered CTA that directs the commodity interest account(s) of one or more clients
February 14	File SEC Form 13F with the SEC for the year ending December 31, 2023.	Institutional Investment Manager that had Investment Discretion with respect to \$100 million or more of Section 13(f) Securities as of the last trading day of any month during calendar year 2023
February 14	File initial SEC Schedule 13G with the SEC.	Qualified Institutional Investor that did not previously report (and was not required to previously report) Beneficial Ownership of securities of a particular class of Covered Equity Securities on SEC Schedule 13G and that, during calendar year 2023, after directly or indirectly acquiring the Beneficial Ownership of securities of such class, directly or indirectly became the Beneficial Owner of more than five percent of such class
February 14	File annual amendment to SEC Schedule 13G with the SEC for the year ending December 31, 2023.	Qualified Institutional Investor or Passive Exempt Investor that previously reported Beneficial Ownership of securities of a particular class of Covered Equity Securities on SEC Schedule 13G
February 14	File annual amendment to SEC Form 13H with the SEC for the year ending December 31, 2023 (unless filed in early January per calendar entry for early January discussed above).	Person or entity that was a Large Trader of NMS Securities at any time during calendar year 2023
February 14	File BE-577 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a "Quarterly Survey of U.S. Direct Investment Abroad," and whose fiscal year is the calendar year
February 14	File BE-605 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a "Quarterly Survey of Foreign Direct Investment in the U.S.," and whose fiscal year is the calendar year
February 14	File BE-185 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a "Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons," and whose fiscal year is the calendar year

DEADLINE	ACTION	RESPONSIBLE PARTY
February 29	File NFA Form PQR <sup>3</sup> for the quarter ending December 31, 2023 through NFA EasyFile for Commodity Pool Operators (Quarterly Reports).	CFTC-registered CPOs
February 29	File annual reaffirmations of reliance on exemption(s)/exclusion from CPO/CTA registration through the NFA's Exemptions System.	CPO – whether registered with the CFTC or exempt from CFTC registration – that claims an exemption from CPO registration with respect to the operation of one or more pools under CFTC Regulation 4.13(a)(3) and/or an exclusion from CPO registration with respect to the operation of one or more pools under CFTC Regulation 4.5  CTA – whether registered with the CFTC or exempt from CFTC registration – that claims an exemption from CTA registration with respect to the management of accounts under CFTC Regulation 4.14(a)(8)
February 29 <sup>4</sup>	In the instance of a Triggering Event, file SEC Form PF.	Private Equity Fund Advisers and Large Private Equity Fund Advisers
February 29	File (or, if previously filed, amend) SEC Form PF for the quarter ending December 31, 2023 with the SEC through the PFRD.	SEC-Registered Manager whose fiscal year is the calendar year that was a Large Hedge Fund Adviser during the fourth calendar quarter of 2023

3. CFTC Regulations require CPOs to file Form CPO-PQR on a quarterly basis, and NFA rules separately require CPOs to file NFA Form PQR on a quarterly basis. However, CFTC Regulations permit CPOs to file NFA Form PQR in lieu of Form CPO-PQR, so we refer only to the requirement to file NFA Form PQR herein.

4. In May 2023, the SEC adopted changes to Form PF, which included additional reporting events for Private Equity Fund Advisers, Large Private Equity Fund Advisers, and Large Hedge Fund Advisers. For a description of those changes, see our client briefing [here](#). For purposes of this calendar, we are using the defined term “Triggering Event” to address the filing deadlines for Private Equity Fund Advisers and Large Private Equity Fund Advisers. “Triggering Event” is defined as one of the following: (i) the investment adviser initiates a secondary transaction (“secondary transaction” is defined as “any transaction initiated by the adviser or any of its related persons that offers private fund investors the choice to: (1) sell all or a portion of their interests in the private fund; or (2) convert or exchange all or a portion of their interests in the private fund for interests in another vehicle advised by the adviser or any of its related persons”); (ii) investors elect to remove the general partner (with or without cause); (iii) investors elect to terminate the fund (for any reason); or (iv) investors elect to terminate the investment period (for any reason). Please see the below section entitled “Events that require Large Hedge Fund Advisers to file SEC Form PF within 72 Hours” for events that require large hedge fund advisers to file a Form PF within 72 hours of the listed events, as they are not associated with specific calendar dates.



DEADLINE	ACTION	RESPONSIBLE PARTY
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<b>February 29</b>	Determine NFA membership status of exempt CPOs/CTAs for purposes of compliance with NFA By-Law 1101; contact any exempt CPOs/CTAs that have not filed a notice affirming their exemption and cease transacting with such entity if it is required to be registered.	NFA Member
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## MARCH 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
<b>March 1</b>	Distribute monthly account statements for January 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024
<b>March 29<sup>5</sup></b>	Update Items 1, 2, 3, 6, 7, 10, and 11 of Part 1A of SEC Form ADV.  File updated Part 1A with the SEC and relevant states through the IARD.	Exempt Reporting Adviser whose fiscal year is the calendar year
<b>March 29<sup>6</sup></b>	Update SEC Form ADV – Part 1A, Part 2A, and Part(s) 2B.  File updated Parts 1A and 2A with the SEC through the IARD.  “Notice file” updated Part 1A (and, if required, updated Part 2A and/or Part(s) 2B) with the states in which the manager has “notice filed” its SEC Form ADV.	SEC-Registered Manager whose fiscal year is the calendar year
<b>March 29<sup>7</sup></b>	Distribute monthly account statements for February 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year and that had net assets of more than \$500,000 as of the beginning of 2024

5. Note that technically the deadline is March 30. Since March 30 falls on a Saturday, we recommend filing by March 29.

6. Note that technically the deadline is March 30. Since March 30 falls on a Saturday, we recommend filing by March 29.

7. Note that technically the deadline is March 30, which is a Saturday. Pursuant to CFTC Regulation 4.22, statements must be delivered within 30 calendar days, so we recommend sending them by no later than March 29.

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## MARCH 2024

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### DEADLINE ACTION

### RESPONSIBLE PARTY

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**March  
30<sup>8</sup>**

File 2023 Annual Report for pool with the NFA through NFA's EasyFile (Annual Reports) and distribute 2023 Annual Report for pool-to-pool participants.

CFTC-registered CPO of CFTC Regulation 4.7 Pool or Non-Exempt Pool whose fiscal year is the calendar year

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**8.** Note the deadline is still March 30, even though the date falls on a Saturday. According to NFA staff, filing dates do not change if the due date falls on a weekend; however, we recommend considering filing with the NFA prior to March 30.

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## APRIL 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
April 10	File amended SEC Form 13H with the SEC if any of the information contained in the Large Trader's immediately prior SEC Form 13H filing has become inaccurate for any reason.	Person or entity that was a Large Trader of NMS Securities at any time during calendar year 2023
April 15	File (or, if previously filed, amend) SEC Form PF for the quarter ending March 31, 2024 with the SEC through the PFRD.	SEC-Registered Manager whose fiscal year is the calendar year and that was a Large Liquidity Fund Adviser during the fourth calendar quarter of 2023
April 15	File Report of Foreign Bank and Financial Accounts ("FBAR") with FinCEN on FinCEN Form 114.	U.S. person who had a financial interest in, or signature authority over, one or more foreign financial accounts whose aggregate value exceeded \$10,000 at any time during a calendar year 2023 (subject to certain exceptions)
April 29	Deliver annual update of Part 2A of SEC Form ADV to existing clients.	SEC-Registered Manager whose fiscal year is the calendar year
April 29	Deliver annual audited financial statements to investors in Pooled Investment Vehicles (other than Funds of Funds).	SEC-Registered Manager that manages Pooled Investment Vehicles whose fiscal year is the calendar year, with respect to which vehicles the SEC-Registered Manager relies on the "audit exception" under the Custody Rule
April 29	File (or, if previously filed, amend) annual SEC Form PF with the SEC through the PFRD.	An SEC-Registered Manager whose fiscal year is the calendar year and that is a Large Private Equity Fund Adviser as of the last day of 2023  An SEC-Registered Manager (other than Large Hedge Fund Advisers and Large Liquidity Fund Advisers) whose fiscal year is the calendar year and that had \$150 million or more of "assets under management" (determined in accordance with SEC Form ADV Part 1A, Instruction 5.b) attributable to Private Funds as of the last day of 2023

DEADLINE	ACTION	RESPONSIBLE PARTY
April 30	Obtain quarterly Transaction Report from each Access Person of the manager covering, at a minimum, all transactions during the first calendar quarter of 2023 involving a Reportable Security in which such Access Person had, or as a result of the transaction acquired, any direct or indirect Beneficial Ownership (subject to certain limitations).	SEC-Registered Manager
April 30	Distribute monthly account statements for March 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2023  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2023
April 30	Distribute quarterly account statements for the quarter ending March 31, 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO: (i) has specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), or (ii) has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3) but such pool had net assets of \$500,000 or less as of the beginning of 2024  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of \$500,000 or less as of the beginning of 2024
April 30	File BE-577 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a "Quarterly Survey of U.S. Direct Investment Abroad," and whose fiscal year is the calendar year
April 30	File BE-605 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a "Quarterly Survey of Foreign Direct Investment in the U.S.," and whose fiscal year is the calendar year
April 30	File BE-185 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a "Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons," and whose fiscal year is the calendar year

## MAY 2024

DEADLINE	ACTION	RESPONSIBLE PARTY
May 15	File NFA Form PR for the quarter ending March 31, 2024 with the NFA through EasyFile (CTA Filers).	CFTC-registered CTA that directs the commodity interest account(s) of one or more clients
May 15	File SEC Form 13F with the SEC for the quarter ending March 31, 2024.	Institutional Investment Manager that had Investment Discretion with respect to \$100 million or more of Section 13(f) Securities as of the last trading day of any month during calendar year 2024
May 28	Compliance date for new recordkeeping requirements <sup>9</sup> relating to shortening of settlement cycle to T+1 for transactions subject to Exchange Act Rule 15c6-2(a).	SEC-Registered Managers Exempt Reporting Advisers
May 30	File (or, if previously filed, amend) SEC Form PF for the quarter ending March 31, 2024 with the SEC through the PFRD.	SEC-Registered Manager whose fiscal year is the calendar year that was a Large Hedge Fund Adviser during the fourth calendar quarter of 2023
May 30	Distribute monthly account statements for April 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024
May 30	File NFA Form PQR for the quarter ending March 31, 2024 through NFA EasyFile for Commodity Pool Operators (Quarterly Reports).	CFTC-registered CPO registered during the first calendar quarter of 2024
May 30	In the instance of a Triggering Event, <sup>10</sup> file SEC Form PF.	Private Equity Fund Advisers and Large Private Equity Fund Advisers

<sup>9</sup>. See Advisers Act Rule 204-2(a)(7)(iii) and Release IA-6329.

<sup>10</sup>. Please see footnote 4 for further details on Triggering Events.

**DEADLINE ACTION****RESPONSIBLE PARTY****May  
31**EXPECTED;  
OR BY JUNE 30,  
2024 FOR  
E-FILING

File BE-11 Form with the BEA.

U.S. Person contacted by the BEA and informed that it is required to file an "Annual Survey of U.S. Direct Investment Abroad"

**May  
31**EXPECTED;  
OR BY JUNE 30,  
2024 FOR  
E-FILING

File BE 15 with the BEA.

Persons contacted by the BEA and informed that it is required to report U.S. affiliates in which foreign entities hold voting ownership interest (or the equivalent) of 10 percent or more

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## JUNE 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
June 28	Deliver annual audited financial statements to investors in Funds of Funds.	SEC-Registered Manager that manages Pooled Investment Vehicles that are Funds of Funds whose fiscal year is the calendar year, with respect to which Funds of Funds the SEC-Registered Manager relies on the “audit exception” under the Custody Rule
June 30 <sup>11</sup>	Distribute monthly account statements for May 2024 to pool participants.	<p>CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024</p> <p>CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024</p>
June 30 <sup>12</sup>	File GIPS Compliance Notification Form with the CFA Institute, using data as of December 31, 2023.	Investment Manager that has previously claimed compliance with GIPS in connection with performance presentations

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**11.** Note that technically the deadline is June 30, which is a Sunday. Pursuant to CFTC Regulation 4.22, statements must be delivered within 30 calendar days, so we recommend sending them by no later than June 28.

**12.** Note that technically the deadline is June 30, which is a Sunday. Pursuant to CFTC Regulation 4.22, statements must be delivered within 30 calendar days, so we recommend sending them by no later than June 28.



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## JULY 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
July 10	File amended SEC Form 13H with the SEC if any of the information contained in the Large Trader's immediately prior SEC Form 13H filing has become inaccurate for any reason.	Person or entity that was a Large Trader of NMS Securities at any time during calendar year 2023
July 15	File (or, if previously filed, amend) SEC Form PF for the quarter ending June 30, 2024 with the SEC through the PFRD. <sup>13</sup>	SEC-Registered Manager whose fiscal year is the calendar year and that was a Large Liquidity Fund Adviser during the first calendar quarter of 2024
July 30	Distribute monthly account statements for June 2024 to pool participants.	<p>CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024</p> <p>CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024</p>
July 30	Distribute quarterly account statements for the quarter ending June 30, 2024 to pool participants	<p>CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO: (i) has specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), or (ii) has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3) but such pool had net assets of \$500,000 or less as of the beginning of 2024</p> <p>CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of \$500,000 or less as of the beginning of 2024</p>

<sup>13</sup>. Starting June 11, 2024, large private equity fund advisers must file the amended Section 4 of Form PF. Please see Section 4, "NOTABLE REGULATORY DEVELOPMENTS AND PUBLICATIONS," for more details on the amendments to Form PF.

DEADLINE	ACTION	RESPONSIBLE PARTY
July 30	File BE-577 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a “Quarterly Survey of U.S. Direct Investment Abroad,” and whose fiscal year is the calendar year
July 30	File BE-605 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a “Quarterly Survey of Foreign Direct Investment in the U.S.,” and whose fiscal year is the calendar year
July 30	File BE-185 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a “Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons,” and whose fiscal year is the calendar year
July 30	Obtain quarterly Transaction Report from each Access Person of the manager covering, at a minimum, all transactions during the second calendar quarter of 2024 involving a Reportable Security in which such Access Person had, or as a result of the transaction acquired, any direct or indirect Beneficial Ownership (subject to certain limited exceptions).	SEC-Registered Manager

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## AUGUST 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
August 14	File NFA Form PR for the quarter ending June 30, 2024 with the NFA through EasyFile (CTA Filers).	CFTC-registered CTA that directs the commodity interest account(s) of one or more clients
August 14	File SEC Form 13F for the quarter ending June 30, 2024 with the SEC.	Institutional Investment Manager that had Investment Discretion with respect to \$100 million or more of Section 13(f) Securities as of the last trading day of any month during calendar year 2023
August 29	File (or, if previously filed, amend) SEC Form PF for the quarter ending June 30, 2024 with the SEC through the PFRD.	SEC-Registered Manager whose fiscal year is the calendar year and that was a Large Hedge Fund Adviser during the first calendar quarter of 2024
August 29	File NFA Form PQR for the quarter ending June 30, 2024 through NFA EasyFile for Commodity Pool Operators (Quarterly Reports).	CFTC-registered CPO registered during the second calendar quarter of 2024
August 29 <sup>14</sup>	In the instance of a Triggering Event, file SEC Form PF.	Private Equity Fund Advisers and Large Private Equity Fund Advisers
August 30	Distribute monthly account statements for July 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024
August 31	File amended SEC Form N-PX on proxy voting record and executive compensation votes.	Registered management investment company, other than small business investment company registered on SEC Form N-5, and Institutional Investment Manager who is a SEC Form 13F Filer

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14. Please see footnote 4 for further details on Triggering Events.

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## SEPTEMBER 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
September 14	Compliance date for Preferential Treatment Rule, Restricted Activities Rule, and Adviser-Led Secondary Rule.	Larger Advisers <sup>15</sup>
September 30	Distribute monthly account statements for August 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024

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15. "Larger Advisers" are defined as advisers with private fund AUM of \$1.5bn or more. "Smaller Advisers" are defined as advisers with private fund AUM of less than \$1.5bn. The Preferential Treatment Rule and Restricted Activities Rule apply to Larger Advisers, Smaller Advisers, as well as ERAs and foreign advisers with U.S.-domiciled funds. The Adviser-Led Secondary Rule only applies to SEC-Registered Managers. For Smaller Advisers, the compliance date for the Preferential Treatment Rule, Restricted Activities Rule, and Adviser-Led Secondary Rule is March 14, 2025. Please see Section 4, "NOTABLE REGULATORY DEVELOPMENTS AND PUBLICATIONS," for more detail.

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## OCTOBER 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
<b>October 10</b>	File amended SEC Form 13H with the SEC if any of the information contained in the Large Trader's immediately prior SEC Form 13H filing has become inaccurate for any reason.	Any person or entity that was a Large Trader of NMS Securities at any time during calendar year 2023
<b>October 15</b>	File (or, if previously filed, amend) SEC Form PF for the quarter ending September 30, 2024 with the SEC through the PFRD.	SEC-Registered Manager whose fiscal year is the calendar year and that was a Large Liquidity Fund Adviser during the second calendar quarter of 2024
<b>October 30</b>	Distribute monthly account statements for September 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024
<b>October 30</b>	Distribute quarterly account statements for the quarter ending September 30, 2024 to pool participants.	CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO: (i) has specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), or (ii) has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3) but such pool had net assets of \$500,000 or less as of the beginning of 2024  CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of \$500,000 or less as of the beginning of 2024
<b>October 30</b>	File BE-577 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a "Quarterly Survey of U.S. Direct Investment Abroad," and whose fiscal year is the calendar year
<b>October 30</b>	File BE-605 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a "Quarterly Survey of Foreign Direct Investment in the U.S.," and whose fiscal year is the calendar year

<b>DEADLINE</b>	<b>ACTION</b>	<b>RESPONSIBLE PARTY</b>
<b>October 30</b>	File BE-185 Form with the BEA.	U.S. Person who is contacted by the BEA and informed that it is required to file a “Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons,” and whose fiscal year is the calendar year
<b>October 30</b>	Obtain quarterly Transaction Report from each Access Person of the manager covering, at a minimum, all transactions during the third calendar quarter of 2024 involving a Reportable Security in which such Access Person had, or as a result of the transaction acquired, any direct or indirect Beneficial Ownership (subject to certain limited exceptions).	SEC-Registered Manager

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## NOVEMBER 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
<b>Early November</b>	If a manager has determined that it no longer engages in any activities in a particular state that would require it to “notice file” its SEC Form ADV with such state, it should update Part 1A of its SEC Form ADV to reflect that determination as soon as practicable (early in November) (stating that such termination in such state shall become effective on December 31) to avoid the IARD’s December assessment of annual fees relating to renewal in such state.	SEC-Registered Manager or Exempt Reporting Adviser that has “notice filed” SEC Form ADV with one or more states
<b>Early November</b>	If a manager has determined in the case of particular persons that renewal of such persons’ registrations in particular states is no longer necessary, it should take appropriate actions to terminate such registrations as soon as practicable (early in November) (stating that such terminations shall become effective on December 31) to avoid the IARD’s December assessment of annual fees relating to renewal of such registrations in those states.	Investment Manager employing persons who are registered as Investment Adviser Representatives, or who are otherwise registered, with one or more states
<b>November 14</b>	File NFA Form PR for the quarter ending September 30, 2024 with the NFA through EasyFile (CTA Filers).	CFTC-registered CTA that directs the commodity interest account(s) of one or more clients
<b>November 14</b>	File SEC Form 13F with the SEC for the quarter ending September 30, 2024.	Institutional Investment Manager that had Investment Discretion with respect to \$100 million or more of Section 13(f) Securities as of the last trading day of any month during calendar year 2023
<b>November 29</b>	File (or, if previously filed, amend) SEC Form PF for the quarter ending September 30, 2024 with the SEC through the PFRD.	SEC-Registered Manager whose fiscal year is the calendar year and that was a Large Hedge Fund Adviser during the second calendar quarter of 2023

DEADLINE	ACTION	RESPONSIBLE PARTY
<b>November 29</b>	File NFA Form PQR for the quarter ending September 30, 2024 through NFA EasyFile for Commodity Pool Operators (Quarterly Reports).	CFTC-registered CPO registered during the third calendar quarter of 2024
<b>November 29<sup>16</sup></b>	In the instance of a Triggering Event, file SEC Form PF.	Private Equity Fund Advisers and Large Private Equity Fund Advisers
<b>November 30<sup>17</sup></b>	Distribute monthly account statements for October 2024 to pool participants.	<p>CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024</p> <p>CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024</p>

**16.** Please see footnote 4 for further details on Triggering Events.

**17.** Note that technically the deadline is November 30, which is a Saturday. Pursuant to CFTC Regulation 4.22, statements must be delivered within 30 calendar days, so we recommend sending them by no later than November 29.



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## DECEMBER 2024

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DEADLINE	ACTION	RESPONSIBLE PARTY
Early December	Fund annual “notice filing” renewal fees with the appropriate states through the manager’s IARD account.	SEC-Registered Manager or Exempt Reporting Adviser that has “notice filed” SEC Form ADV with one or more states
Early December	Fund annual renewal fees with the appropriate states through the manager’s IARD account.	Investment Manager employing persons who are registered as Investment Adviser Representatives, or who are otherwise registered, with one or more states
December 30	Distribute monthly account statements for November 2024 to pool participants.	<p>CFTC-registered CPO of CFTC Regulation 4.7 Pool whose fiscal year is the calendar year and CPO has not specifically claimed the relief provided by CFTC Regulation 4.7(b)(3), if pool had net assets of more than \$500,000 as of the beginning of 2024</p> <p>CFTC-registered CPO of Non-Exempt Pool whose fiscal year is the calendar year if pool had net assets of more than \$500,000 as of the beginning of 2024</p>

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## ANNUAL COMPLIANCE REQUIREMENTS NO FIXED DATES

ACTION	RESPONSIBLE PARTY
Deliver annual privacy notice to applicable clients/investors, if required.	Every Investment Manager
Renew SEC Form D filings, if applicable. Form D amendments must be filed annually, on or before the first anniversary of the most recent previously filed notice, if the offering is continuing at that time.	Every Investment Manager
Review “new issue” eligibility of clients/investors, if applicable. Advisers should send confirmation letters to clients and private fund investors regarding restricted status, which may be accomplished by way of negative consent.	Every Investment Manager
File initial SEC Schedule 13G with SEC within 10 days of acquiring Beneficial Ownership of more than five percent of the securities of a particular class of Covered Equity Securities.	Passive Investors
Review holdings of Covered Equity Securities to determine (i) if an amendment is due during the calendar year or (ii) if investment intent is no longer passive and an SEC Schedule 13D is due.	Qualified Institutional Investors and Passive Investors
Review and test and, if necessary, update compliance policies and procedures (and document such review, testing, and updating). <sup>18</sup>	SEC-Registered Manager
Provide Code of Ethics (or amendment) to Supervised Persons and obtain their acknowledgements of receipt.	SEC-Registered Manager
Obtain initial Holdings Report from each Access Person no later than 10 days after the person becomes an Access Person and obtain subsequent Holdings Reports from each Access Person at least once every 12 months, on a date selected by the manager.	SEC-Registered Manager
An SEC-Registered Manager or an Exempt Reporting Adviser (or an SEC-registered broker-dealer that is affiliated with such manager/adviser) that, in reliance on Rule 206(3)-2 under the Advisers Act, effects “agency cross transactions” for any advisory client of the manager/adviser must (among other things) send to each such client, at least annually, a written disclosure statement identifying the total number of such transactions effected for such client during the period since the date of the last such statement, and the total amount of all commissions or other remuneration received or to be received by the manager/adviser (and/or such affiliated broker-dealer) in connection with such transactions during such period. Special considerations apply where the advisory client is a Private Fund or other type of commingled investment vehicle.	SEC-Registered Manager Exempt Reporting Adviser

<sup>18</sup>. As of November 13, 2023, all SEC-Registered Managers, even those not advising private funds, must document their annual review of compliance policies and procedures in writing.

## ANNUAL COMPLIANCE REQUIREMENTS NO FIXED DATES

CONTINUED

ACTION	RESPONSIBLE PARTY
Update offering documents for Non-Exempt Pools.	CFTC-Registered CPO
Update Disclosure Documents relating to non-exempt accounts.	CFTC-Registered CTA
Review compliance with NFA-required internal control system requirements; no mandated due date but should be performed at least once every calendar/fiscal year; self-imposed due date should be the same as possible from year to year.	CFTC-Registered CPO
Complete annual electronic Registration Update with the CFTC and the NFA through the NFA's Online Registration System (ORS), when notified to do so on the NFA's Dashboard (typically, within 30 days of the anniversary of the registrant's registration).	NFA Member
Complete the NFA's Annual Questionnaire using the NFA's Annual Questionnaire System, and pay annual NFA membership dues (and annual records maintenance fee for each category of registration), within 30 days of anniversary date of NFA membership.	
Complete annual NFA Self-Examination Questionnaire (together with applicable supplement(s)) and attest to such completion; no mandated due date, but should be performed at least once every calendar/fiscal year within 12 months of the last annual self-examination.	NFA Member
Review written information systems security (cybersecurity) program using either in-house staff with appropriate knowledge or by engaging an independent third-party information security specialist; no mandated due date, but should be performed at least once every calendar/fiscal year; self-imposed due date should be the same as possible from year to year.	NFA Member
Review written ethics training procedures, the content of training programs, training providers, the format of training, the frequency of training and the manner in which the manager documents compliance with its training procedures; assess whether any associated persons are in need of additional ethics-related training; no mandated due date, but should be performed at least once every calendar/fiscal year; self-imposed due date should be the same as possible from year to year.	NFA Member
Review and "stress test" business continuity/disaster recovery plan to assess its effectiveness and make any necessary adjustments; no mandated due date, but should be performed at least once every calendar/fiscal year; self-imposed due date should be the same as possible from year to year.	NFA Member

ACTION	RESPONSIBLE PARTY
File appropriate Form BE-13 ( <i>i.e.</i> , 13A, 13B, 13D, 13E or Claim for Exemption) with BEA within 45 days after qualifying transaction.	<ul style="list-style-type: none"><li>• U.S. business enterprise when a foreign entity acquires a voting interest (directly or indirectly through an existing U.S. affiliate) in the enterprise, segment or operating unit, and the acquisition meets the following criteria:<ul style="list-style-type: none"><li>(i) the total cost of the acquisition is more than \$3 million; <b>AND</b></li><li>(ii) the foreign entity now directly or indirectly owns at least 10 percent of the voting interest in the acquired enterprise (BE-13A)</li></ul></li> <li>• U.S. business enterprise when a foreign entity or an existing U.S. affiliate of a foreign entity establishes a new legal entity in the United States, and the establishment of the new entity meets the following criteria:<ul style="list-style-type: none"><li>(i) the projected total cost to establish the new legal entity is more than \$3 million; <b>AND</b></li><li>(ii) the foreign entity now directly or indirectly owns at least 10 percent of the voting interest in the newly established business enterprise (BE-13B)</li></ul></li> <li>• Existing U.S. affiliate of a foreign parent that expands its operations to include a new facility where business is conducted, and the projected total cost of the expansion is more than \$3 million (cost is in the aggregate, according to BEA representative) (BE-13D)</li> <li>• U.S. business enterprise that previously filed form BE-13B or BE-13D and the established or expanded entity is still under construction. (BE-13E)</li> <li>• U.S. business enterprise that meets any of the following criteria:<ul style="list-style-type: none"><li>(i) the BEA contacted the enterprise but it does not meet the requirements for filling any of the forms; <b>OR</b></li><li>(ii) the enterprise, regardless of whether the BEA contacted it, meets all the requirements for filing one of the other forms, except the \$3 million reporting threshold (Claim for Exemption)</li></ul></li> <li>• U.S. reporters who are asked by the BEA to submit a BE-13 form can file a Claim for Exemption if the relevant business or affiliate is a Private Fund as long as:<ul style="list-style-type: none"><li>(i) the Private Fund does not own, directly or indirectly through another business enterprise, an “operating company” (<i>i.e.</i>, a business enterprise that is not a Private Fund or a holding company) in which the foreign parent owns at least 10 percent of the voting interest (directly or indirectly); <b>AND</b></li><li>(ii) if the U.S. reporter owns the Private Fund indirectly (through one or more other U.S. business enterprises), there are no “operating companies” between the foreign parent and the indirectly-owned U.S. private fund. The foreign investment in the U.S. private fund may be required to be reported on TIC Surveys</li></ul></li></ul>

**ACTION****RESPONSIBLE PARTY**

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In accordance with the Corporate Transparency Act and the implementing regulations and interpretive guidance issued thereunder by FinCEN, entities formed or registered to do business in the U.S. before January 1, 2024 (“Existing Entities”), must report (i) beneficial ownership information and (ii) Reporting Company information on or before January 1, 2025; entities formed between January 1, 2024, and December 31, 2024 (“Entities Formed in 2024”), must report (i) beneficial ownership information, (ii) Reporting Company information, and (iii) company applicant information within 90 days of formation or registration; entities formed on or after January 1, 2025 (“Entities Formed after 2024”), must report (i) beneficial ownership information, (ii) Reporting Company information, and (iii) company applicant information within 30 days of formation or registration.

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Existing Entities; Entities Formed in 2024; Entities Formed after 2024

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## EVENTS THAT REQUIRE LARGE HEDGE FUND ADVISERS TO FILE SEC FORM PF WITHIN 72 HOURS

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ACTION	RESPONSIBLE PARTY
File SEC Form PF within 72 hours if on any business day the 10-day holding period return of the reporting fund is less than or equal to 20% of reporting fund aggregate calculated value.	Large Hedge Fund Advisers
File SEC Form PF within 72 hours in the event that a 10 business day change in posted margin, collateral, or equivalent is greater than or equal to 20% of average daily aggregate calculated value during same period.	Large Hedge Fund Advisers
File SEC Form PF within 72 hours in the event that a fund is in default on a call for margin, collateral or an equivalent that it cannot cover, or adviser determines that fund will not be able to meet such call.	Large Hedge Fund Advisers
File SEC Form PF within 72 hours in the event that a counterparty to a reporting fund (a) does not meet a call for margin, collateral or equivalent or fails to make any other payment on time and in the form contractually required and (b) the amount involved is greater than 5% of aggregate calculated value.	Large Hedge Fund Advisers
File SEC Form PF within 72 hours in the event of termination or material restriction of a reporting fund's relationship with a prime broker.	Large Hedge Fund Advisers
File SEC Form PF within 72 hours in the event that there is a "significant disruption or degradation of the reporting fund's critical operations."	Large Hedge Fund Advisers
File SEC Form PF within 72 hours in the event that a fund receives cumulative requests for withdrawals or redemptions equal to at least 50% of the most recent net asset value.	Large Hedge Fund Advisers
File SEC Form PF within 72 hours in the event that a fund is unable to pay redemption requests.	Large Hedge Fund Advisers
File SEC Form PF within 72 hours in the event that a fund has suspended redemptions for at least five consecutive business days.	Large Hedge Fund Advisers

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## SECTION 2

# COMPLIANCE TIPS AND TIC FORMS

The following best practices reflect current regulatory and enforcement priorities, as well as our experience advising investment managers, private funds and commodity pool operators on compliance issues. Although not exhaustive, this list provides a useful framework for assessing the strength of your compliance program.

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## COMPLIANCE TIPS

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### RESPONSIBLE PARTY TIP

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All Investment Managers

If an Investment Manager manages Private Funds and/or other fund products, it should review and, if necessary, update offering documents and marketing materials relating to Private Funds and other fund products, even if not required by law or regulation.

If an Investment Manager participates in the offer and sale of securities of Private Funds pursuant to the exemption from Securities Act registration provided by Rule 506 of Regulation D under the Securities Act (or otherwise engages in the offer and sale of securities pursuant to that rule), it should conduct periodic due diligence into the “bad actor” status of certain parties in order to confirm the continuing availability of the Rule 506 exemption.

Review, test and update compliance policies and procedures, even if not required by law or regulation (and document such review, testing and updating). Specific focus should include policies and procedures related to:

- Conflicts
- Fees and expenses
- Cybersecurity
- Material nonpublic information
- Marketing materials

Review CFIUS, ERISA, and tax considerations.

Review “pay to play,” lobbyist, and gifts/entertainment considerations.

Review liability insurance considerations.

If applicable, review and monitor changes in law and regulation in foreign jurisdictions, including filing obligations.

Consider review of policies and procedures in connection with the new Private Fund Adviser Rules depending on applicable implementation date.

ERAs should consider review of disclosures in accordance with the Marketing Rule as best practice.

SEC-Registered Managers

Redistribute Code of Ethics to all Supervised Persons and obtain acknowledgements of receipt.

Review compliance with the new Marketing Rule.

Review compliance with Custody Rule.

Consider review of policies and procedures in connection with the new Private Fund Adviser Rules depending on applicable implementation date.



**RESPONSIBLE PARTY**    **TIP**

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SEC-Registered  
Managers That Are Also  
Broker-DealersOR HAVE AFFILIATES THAT ARE  
BROKER-DEALERS

Review allegations of sales practice violations made against a registered person in an arbitration or litigation – even in cases where the registered person is not a named party – and amend the registered person’s Form U4 to disclose such information as required.

**PRACTICE TIP** Supervision of recidivist representatives (*i.e.*, those with a track record of misconduct) has previously been listed by the Division as an examination priority.

NFA  
Members

Complete the NFA’s Self-Examination Questionnaire on an annual basis.

Review disclosure of virtual currency practices.

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## TIC FORMS

Investment Managers may be required to complete and submit various forms under the Treasury Department's Treasury International Capital ("TIC") system. TIC Form SLT aims to capture information regarding transactions between U.S. residents and foreign entities involving long-term securities. Long-term securities are securities without a stated maturity date (such as equities) or with an original term-to-maturity greater than one year. U.S.-resident Investment Managers, whether for their own portfolios or on behalf of their clients (including hedge funds, private equity funds, and commingled funds) that either issue long-term securities to foreign residents and/or hold long-term securities issued by foreign entities, are required to file a TIC Form SLT if the amount of such securities exceeds \$1 billion, excluding such securities that are held by a U.S.-resident third-party custodian.

► **TIC Form SLT** Investment Managers subject to Form SLT reporting requirements must complete and file a Form SLT monthly. Additionally, once the \$1 billion threshold is met in a month, the reporting entity must provide a TIC Form SLT each month for the remainder of the calendar year, regardless of whether the \$1 billion threshold is met in later months of that calendar year.

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For detailed instructions on TIC Form SLT, see [home.treasury.gov/data/treasury-international-capital-tic-system-home-page/tic-forms-instructions/tic-slt-form-and-instructions](https://home.treasury.gov/data/treasury-international-capital-tic-system-home-page/tic-forms-instructions/tic-slt-form-and-instructions). The Appendix to the instructions for TIC Form SLT contains flow charts for analyzing the reporting obligations under various onshore and offshore fund structures and organizational charts for analyzing the reporting obligations and applying the consolidation rules under various corporate structures.

► **TIC Form B** TIC Form B aims to gather timely and reliable information on the levels of, and changes in, U.S. international portfolio capital positions that do not include long-term securities and derivatives, such as swaps and futures. There are a number of TIC Form Bs, each with either monthly or quarterly filing obligations and subject to aggregate and individual country reporting thresholds. Investment Managers do not include "reportable claims" and "reportable liabilities" that are held by a U.S.-resident custodian.

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For detailed instructions on TIC Form B, see [home.treasury.gov/data/treasury-international-capital-tic-system-home-page/tic-forms-instructions/tic-b-forms-and-instructions](https://home.treasury.gov/data/treasury-international-capital-tic-system-home-page/tic-forms-instructions/tic-b-forms-and-instructions)

## SECTION 3

# GLOSSARY

The following defined terms appear in *the Investment Management Regulatory & Compliance Calendar and Guidebook 2024*.

## A

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### **ACCESS PERSON**

An “access person,” as defined in Rule 204A-1(e)(1) under the Advisers Act.

### **ADVISERS ACT**

The U.S. Investment Advisers Act of 1940, as amended.

## B

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### **BEA**

The Bureau of Economic Analysis of the U.S. Department of Commerce.

### **BENEFICIAL OWNER OR BENEFICIAL OWNERSHIP**

As defined in Rules 13d-3 and 13d-5 under the Exchange Act, Rule 16a-1(a)(2) under the Exchange Act, or Rule 204A-1(e)(3) under the Advisers Act, as applicable.

## C

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### **CEA**

The U.S. Commodity Exchange Act, as amended.

### **CFTC**

The U.S. Commodity Futures Trading Commission.

### **CFTC ADVISORY 18-96 POOL**

A Commodity Pool operated by a CFTC-registered CPO pursuant to CFTC Advisory 18-96.

### **CFTC-REGISTERED CPO**

A CPO registered with the CFTC under the CEA.

### **CFTC-REGISTERED CTA**

A CTA registered with the CFTC under the CEA.

### **CFTC REGULATION 4.5 POOL**

A Commodity Pool operated pursuant to the exclusion from that definition provided by CFTC Regulation 4.5.

### **CFTC REGULATION 4.7 POOL**

A Commodity Pool operated by a CFTC-registered CPO pursuant to CFTC Regulation 4.7.

### **CFTC REGULATION 4.12 POOL**

A Commodity Pool operated by a CFTC-registered CPO pursuant to CFTC Regulation 4.12.

### **COMMODITY POOL**

A “commodity pool,” as defined in Section 1a(10) of the CEA.

### **CPO**

A “commodity pool operator,” as defined in Section 1a(11) of the CEA.

### **CTA**

A “commodity trading advisor,” as defined in Section 1a(12) of the CEA.

### **CUSTODY RULE**

Rule 206(4)-2 under the Advisers Act.

## D

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### **DIVISION**

The SEC’s Division of Examinations, previously known as the SEC’s Office of Compliance Inspections and Examinations.

## E

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### **EASYFILE**

The EasyFile electronic filing system operated by the NFA.

## **ERA OR EXEMPT REPORTING ADVISER**

An Investment Manager that relies (and is entitled to rely) on the Private Fund Adviser Exemption or the Venture Capital Fund Adviser Exemption.

## **EXCHANGE ACT**

The U.S. Securities Exchange Act of 1934, as amended.

## **F**

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### **FINCEN**

The Financial Crimes Enforcement Network of the U.S. Department of the Treasury.

### **FINRA**

The U.S. Financial Industry Regulatory Authority, Inc.

### **FUND OF FUNDS**

A Pooled Investment Vehicle that invests 10 percent or more of its total assets in other Pooled Investment Vehicles that are not, and are not advised by, a “related person” of the pool, its general partner, or its adviser.

## **H**

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### **HOLDINGS REPORT**

A report containing the information described in Rule 204A-1(b)(1) under the Advisers Act.

## **I**

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### **IARD**

The Investment Adviser Registration Depository, operated by FINRA.

### **ICA**

The U.S. Investment Company Act of 1940, as amended.

### **INSTITUTIONAL INVESTMENT MANAGER**

An “institutional investment manager,” as defined in Section 13(f) (6) of the Exchange Act.

### **INVESTMENT ADVISER REPRESENTATIVE**

An “investment adviser representative,” as defined in Rule 203A-3(a)(1) under the Advisers Act.

### **INVESTMENT DISCRETION**

“Investment discretion,” as defined in Section 3(a)(35) of the Exchange Act.

## **L**

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### **LARGE HEDGE FUND ADVISER**

An SEC-Registered Manager that is required to file Section 2a of SEC Form PF per the SEC Form PF General Instructions.

### **LARGE LIQUIDITY FUND ADVISER**

An SEC-Registered Manager that is required to file Section 3 of SEC Form PF per the SEC Form PF General Instructions.

### **LARGE PRIVATE EQUITY ADVISER**

An SEC-Registered Manager that is required to file Section 4 of SEC Form PF per the SEC Form PF General Instructions.

### **LARGE TRADER**

A “large trader,” as defined in Rule 13h-1 under the Exchange Act.

## **M**

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### **MARKETING RULE**

Rule 206(4)-1 under the Advisers Act.

## **N**

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### **NFA**

The U.S. National Futures Association.

### **NMS SECURITY**

An “NMS security,” as defined in Rule 600(b)(47) under the Exchange Act.

### **NON-EXEMPT POOL**

A Commodity Pool operated by a CFTC-registered CPO, other than a CFTC Regulation 4.5 Pool, a CFTC Regulation 4.7 Pool, a CFTC Regulation 4.12 Pool, a CFTC Regulation 4.13 Pool or a CFTC Advisory 18-96 Pool.

## P

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### **PASSIVE INVESTOR**

A person or entity entitled to file an SEC Schedule 13G pursuant to Rule 13d-1(c) under the Exchange Act.

### **PFRD**

The Private Fund Reporting Depository of the IARD.

### **POOLED INVESTMENT VEHICLE**

A limited partnership, limited liability company, or other type of investment vehicle that is an investment company as defined in Section 3(a) of the ICA or a Private Fund. See Rule 206(4)-8 under the Advisers Act.

### **PRIVATE FUND**

Any entity or fund that would be an “investment company” as defined in Section 3 of the ICA but for either or both of the “exclusions” from that definition provided by Section 3(c)(1) of the ICA or Section 3(c)(7) of the ICA.

### **PRIVATE FUND ADVISER EXEMPTION**

The exemption from registration with the SEC as an investment adviser provided by:

▶ Rule 203(m)-1(a) under the Advisers Act, for an Investment Manager that is U.S.-based (that is, has its “principal office and place of business” in the “United States”) and that advises solely “qualifying private funds” having aggregate “assets under management” of less than \$150 million, regardless of whether the manager manages such “qualifying private funds” from a

“place of business” in or outside the “United States”; **OR**

▶ Rule 203(m)-1(b) under the Advisers Act, for an Investment Manager that is not U.S.-based (that is, has its “principal office and place of business” outside the “United States”) and that has no client that is a “United States person” except for one or more “qualifying private funds,” provided that all assets managed by the manager at a “place of business” in the “United States” are solely attributable to “qualifying private funds,” and the total value of such assets (including assets attributable to “qualifying private funds” that are not “United States persons” if such assets are managed by the manager at a “place of business” in the United States) is less than \$150 million.

## Q

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### **QUALIFIED INSTITUTIONAL INVESTOR**

A person or entity entitled to file an SEC Schedule 13G pursuant to Rule 13d-1(b) under the Exchange Act.

## R

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### **REPORTABLE SECURITY**

A “reportable security,” as defined in Rule 204A-1(e)(10) under the Advisers Act.

## S

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### **SEC**

The U.S. Securities and Exchange Commission.

### **SEC-REGISTERED MANAGER**

An investment adviser registered with the SEC under the Advisers Act.

### **SECTION 13(F) SECURITIES**

A “Section 13(f) security,” as defined in Rule 13f-1(c) under the Exchange Act.

### **SECURITIES ACT**

The U.S. Securities Act of 1933, as amended.

### **SUPERVISED PERSON**

A “supervised person,” as defined in Section 202(a)(25) of the Advisers Act.

## T

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### **TRANSACTION REPORT**

A report containing the information described in Rule 204A-1(b)(2) under the Advisers Act.

## V

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### **VENTURE CAPITAL FUND ADVISER EXEMPTION**

The exemption from registration with the SEC as an investment provided by Rule 203(l)-1 under the Advisers Act for an Investment Manager that advises solely “venture capital funds”.

## SECTION 4

# NOTABLE REGULATORY DEVELOPMENTS AND PUBLICATIONS

### SEC DIVISION OF EXAMINATIONS' 2024 PRIORITIES

On October 16, 2023, the Division announced its annual list of [examination priorities for 2024](#) (the "Priorities"), which will focus on areas that pose emerging risks to investors or the markets in addition to core and continuing risk areas. Notably, the Division published the Priorities with the start of the fiscal year to "better inform investors and registrants of the key risks, trends, and examination topics" the Division plans to focus on in the upcoming year. Given that the last publication of the Division's priorities was published in [February 2023](#), several initiatives and focus areas from last year will remain as priorities in 2024.

#### I. PRIORITIES FOR INVESTMENT ADVISERS

##### A. Examinations of Investment Advisers

An investment adviser's adherence to their duty of care and duty of loyalty obligations remains an examination priority for the Division. In connection with such priority, the Division will continue to focus on the following:

- Investment advice provided to clients with regard to products, investment strategies, and account types, including those regarding (1) complex products (e.g., derivatives and leveraged exchange-traded funds (ETFs)); (2) high cost and illiquid products (e.g., variable annuities and non-traded real estate investment trusts (REITs)); and (3) unconventional strategies. Investment advice provided to certain types of clients, such as older investors and those saving for retirement, will also be an examination focus.

- Processes for determining that investment advice is provided in clients' best interest, including processes for (1) making initial and ongoing suitability determinations, (2) seeking best execution, (3) evaluating costs and risks, and (4) identifying and addressing conflicts of interest. Examinations will also focus on how advisers address conflicts of interest.
- Economic incentives that an adviser and its financial professionals may have to recommend products, services, or account types, e.g., source and structure of compensation, revenue, or other benefits. Examinations will focus on economic incentives and conflicts of interest associated with dually registered broker-dealers, use of affiliated firms, and financial professionals servicing both brokerage customers and advisory clients.
- Disclosures made to investors and the adequacy of such conflicts of interest disclosures.

The Division will remain focused on advisers' compliance programs, including whether the policies and procedures reflect the various aspects of the advisers' business, compensation structure, services, client base, and operations, and address applicable current market risks.

In addition, the Division identified other areas of examination focus:

- Marketing practice assessments for whether advisers, including advisers to private funds, have: (1) adopted and implemented policies and procedures to prevent violations of the Advisers Act, and rules and regulations

thereunder; (2) disclosed their marketing-related information on Form ADV; and (3) maintained substantiation of their processes and other required books and records.

- Compensation arrangement assessments focusing on fiduciary obligations of advisers to their clients, alternative ways that advisers try to maximize revenue, and fee breakpoint calculation processes.
- Valuation assessments regarding advisers' recommendations to clients to invest in illiquid or difficult to value assets.
- Safeguarding assessments for advisers' controls to protect clients' material non-public information.
- Disclosure assessments to review the accuracy and completeness of regulatory filings.

The Division will also focus on advisers' policies and procedures for (1) selecting and using third-party and affiliated service providers; (2) overseeing branch offices when advisers operate from numerous or geographically dispersed offices; and (3) obtaining informed consent from clients when advisers implement material changes to their advisory agreements. In addition, as with prior years, the Division will continue to prioritize examinations of advisers that have never been examined.

### **B. Examinations of Investment Advisers to Private Funds**

In addition to the above, the Division will continue to focus on advisers to private funds and prioritize the following topics:

- Portfolio management risks present when there is exposure to recent market volatility and higher interest rates.
- Adherence to contractual requirements regarding limited partnership advisory committees or similar structures.

- Accurate calculation and allocation of private fund fees and expenses.
- Due diligence practices for consistency with policies, procedures, and disclosures, with a focus on private equity and venture capital fund assessments of prospective portfolio companies.
- Conflicts, controls, and disclosures regarding private funds managed side-by-side with registered investment companies and use of affiliated service providers.
- Compliance with Advisers Act requirements regarding custody.
- Policies and procedures for reporting on Form PF.

## **II. PRIORITIES FOR BROKER-DEALERS**

### **A. Regulation Best Interest**

The Division will remain focused on Regulation Best Interest ("Reg BI"). Particular areas of interest will include:

- Recommendations with regards to products, investment strategies, and account types;
- Disclosures made to investors regarding conflicts of interest;
- Conflict mitigation practices;
- Processes for reviewing reasonably available alternatives; and
- Factors considered in light of the investor's investment profile.

Examinations will also focus on those recommended products that are (1) complex (e.g., derivatives and leveraged ETFs); (2) high cost (e.g., variable annuities); (3) illiquid (e.g., nontraded REITs and private placements); (4) proprietary; and (5) microcap securities. As with investment advisers,

examinations may also focus on recommendations to certain types of investors, such as older investors and those saving for retirement or college.

The Division will evaluate whether broker-dealers have established, maintained, and enforced written policies and procedures reasonably designed to achieve compliance with the above areas and Reg BI as a whole. The Division will also continue to focus on dual registrants and examinations will encompass firms' conflicts of interest, account allocation practices, account selection practices, and broker-dealers' supervision of branch office locations.

#### **B. Form CRS**

The Division will also review the content of a broker-dealer's relationship summary, and whether broker-dealers have met their obligations to file their relationship summary with the SEC and deliver their relationship summary to retail customers.

#### **C. Broker-Dealer Financial Responsibility Rules**

Examinations will focus on broker-dealer compliance with the Net Capital Rule (Rule 15c3-1) and the Customer Protection Rule (Rule 15c3-3) and related internal processes, procedures, and controls. Areas of focus will include:

- Fully paid lending programs;
- Broker-dealer accounting for certain types of liabilities; and
- Broker-dealer credit, interest rate, market, and liquidity risk management controls.

#### **D. Broker-Dealer Trading Practices**

The Division will also cover broker-dealer equity and fixed income trading practices, with a focus on compliance with (1) Regulation SHO, (2) Regulation ATS, and (3) Exchange Act Rule 15c2-11. In addition, for whole market makers, examinations may include

quote generation, order routing, and execution practices, market data ingestion, regulatory controls, and risk management.

### **III. RISK AREAS IMPACTING VARIOUS MARKET PARTICIPANTS**

#### **A. Information Security and Operational Resiliency**

Examinations will continue to focus on broker-dealers' and advisers' practices to prevent operational interruptions and to protect investor information, records, and assets. The Division will also focus on registrants' policies and procedures, internal controls, oversight of third-party vendors, governance practices, and responses to cyber-related incidents. In addition, the Division will continue to assess how registrants identify and address risks to essential business operations, other cybersecurity issues associated with the use of third-party vendors and whether there has been an unauthorized use of third-party providers. Examinations of broker-dealers and advisers will also continue to look at firms' practices to prevent account intrusions and safeguard customer records and information. Lastly, the Division will assess registrant preparations associated with the adopted rule changes to shorten the standard settlement cycle, which has a compliance date of May 28, 2024.

#### **B. Crypto Assets and Emerging Financial Technology**

The Division will focus on broker-dealers and advisers offering new products and services or employing new practices, specifically technological and online solutions that service online accounts aimed at meeting the demands of compliance and marketing. The Division will also remain focused on certain services, including automated investment tools, artificial intelligence, and trading algorithms or platforms, and the risks associated with the use



of emerging technologies and alternative sources of data.

The Division highlighted the continued volatility and activity around the crypto assets market, noting that it will continue to monitor and conduct examinations of registrants. Examinations will focus on the offer, sale, recommendation of, advice regarding, trading in, and other activities in crypto assets or related products. The Division will also assess whether any technological risks associated with the use of blockchain, and distributed ledger technology have been addressed.

### **C. Anti-Money Laundering (“AML”)**

The Division will continue to focus on AML programs to review whether broker-dealers and certain registered investment companies are:

- Appropriately tailoring their AML program to their business model and associated AML risks;
- Conducting independent testing;
- Establishing an adequate customer identification program, including for beneficial owners of legal entity customers; and
- Meeting their SAR filing obligations.

The Division will also review policies and procedures for oversight of applicable financial intermediaries, and whether broker-dealers and advisers are monitoring Office of Foreign Assets Control sanctions and ensuring compliance with such sanctions.

The report provides insight into the Division’s priorities for the upcoming fiscal year. By publishing the Priorities with the start of the fiscal year, the Division hopes to provide more transparency and information to registrants regarding “the key risks, trends, and examination topics” in 2024.

## 2023 DIVISION RISK ALERTS

### INVESTMENT ADVISERS: ASSESSING RISKS, SCOPING EXAMINATIONS, AND REQUESTING DOCUMENTS

On September 6, 2023, the Division published a risk alert intended to provide investment advisers with a new level of insight and additional transparency regarding the scope of adviser examinations, including how the Division assesses risk and selects which firms to examine, and the methodology for document requests during an examination.

The Division utilizes a risk-based approach for selecting advisers to examine and in determining the scope of risk areas to examine, which adapts to changes in market conditions, industry practices, and investor preferences. The Division lists 11 firm-specific factors it may consider when selecting firms to examine, which include, without limitation: prior examination observations and regulatory history; supervisory concerns, such as disciplinary history of associated individuals or affiliates; tips, complaints, or referrals involving the firm; business activities of the firm or its personnel that may create conflicts of interest; the length of time since the firm's registration or last examination; and material changes in the firm's leadership or personnel.

Once the Division selects an adviser for examination, the Division conducts additional risk assessment to determine the scope of the examinations, including the particular areas of the business that the examiners will focus their review on. While the scope of an examination is tailored to the firm's business model and associated risks, examinations typically include reviewing advisers' operations, disclosures, conflicts of interests, and compliance practices with respect to core areas, including, without limitation, custody and safekeeping of client assets, valuation, portfolio management, fees and expenses, and brokerage and best execution. During an examination, the Division requests documents and information applicable to these core areas to test the

effectiveness of advisers' compliance policies and procedures for monitoring, mitigating, and managing such risk.

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Please see our [client alert](#) on this subject.

The SEC's risk alert is available at [www.sec.gov/files/risk-alert-ia-risk-and-requesting-documents-090623.pdf](http://www.sec.gov/files/risk-alert-ia-risk-and-requesting-documents-090623.pdf).

### OBSERVATIONS FROM ANTI-MONEY LAUNDERING COMPLIANCE EXAMINATIONS OF BROKER-DEALERS

On July 31, 2023, the Division published a risk alert highlighting observations from examinations of broker-dealers regarding their compliance with certain key AML obligations. Specifically, the risk alert discusses the Division's observations relating to independent testing of firms' AML programs and training of their personnel, Customer Identification Programs, as well as Customer Due Diligence and beneficial ownership requirements. Moreover, the Division observed weaknesses in firms' Office of Foreign Assets Control ("OFAC") compliance programs. The Alert emphasizes the importance of firms dedicating sufficient resources (including staffing) to the performance of AML and sanctions compliance functions, particularly in the current environment of new and increasing sanctions imposed by OFAC against individuals and entities.

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The SEC's risk alert is available at [www.sec.gov/file/exams-reg-bi-alert-13023.pdf](http://www.sec.gov/file/exams-reg-bi-alert-13023.pdf).

### EXAMINATIONS FOCUSED ON ADDITIONAL AREAS OF THE ADVISER MARKETING RULE

On June 8, 2023, Division published a risk alert informing the industry that it will focus on testimonials and endorsements, third-party ratings, and Form ADV in their reviews of investment advisers' compliance with the Marketing Rule. The Division is conducting more focused examinations

on the following additional areas when reviewing an investment adviser's compliance with the Marketing Rule:

- (1) **Testimonials and Endorsements:** The SEC's staff will examine whether there is a clear and prominent disclosure as to whether the person providing the testimonial is a client or an investor, whether that person is compensated, or if there are any conflicts of interest; advisers have a reasonable basis for believing that the testimonials comply with the Marketing Rule; written agreements are entered into where required, such as with those providing testimonials, unless that person is an applicable affiliate of the adviser and such affiliation is apparent and already disclosed or such person receives de minimis compensation (*i.e.*, \$1,000 or less, or the equivalent value in noncash compensation, during the preceding 12 months); and advisers knew or reasonably should have known that a person providing a testimonial was ineligible to do so because, for instance, that person is a "bad actor" prohibited from acting as a promoter.
- (2) **Third-Party Ratings:** The SEC's staff will examine whether the adviser provides (or reasonably believes that the third-party rating provides) clear and prominent disclosures as to (1) the date on which the rating was provided and the period during which it applies, (2) the identity of the third party that created the rating, and (3) whether or not compensation was provided directly or indirectly by the adviser in connection with obtaining or using the third-party rating, and the questionnaires or surveys used to prepare the third-party rating meet specific conditions, such as a reasonable basis for the adviser's belief that the questionnaire was fair and not designed to create a predetermined result.
- (3) **Form ADV:** The SEC's staff will conduct a focused review on whether the advisers accurately provided additional information

regarding their marketing practices in their Form ADV. Investment advisers were required to answer new questions relating to the Marketing Rule in their most recent amendments to Form ADV.

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Please see our [client alert](#) on this subject.

The SEC's risk alert is available at [www.sec.gov/files/risk-alert-marketing-rule-announcement-phase-3-060823.pdf](http://www.sec.gov/files/risk-alert-marketing-rule-announcement-phase-3-060823.pdf).

### **OBSERVATIONS FROM EXAMINATIONS OF INVESTMENT ADVISERS AND INVESTMENT COMPANIES CONCERNING LIBOR-TRANSITION PREPAREDNESS**

On May 11, 2023, the Division published a risk alert directed at registered investment advisers and investment companies to remind them that U.S. Dollar LIBOR is scheduled to be discontinued after June 30, 2023, and to summarize the Division's observations from recent exams. The Division noted that "almost all examined firms" are keeping informed and engaged in industry associations by being members of the Alternative Reference Rates Committee ("ARRC") (or relying on its guidance) or by participating in LIBOR-transition-related conversations with relevant industry groups. Many firms are providing relevant personnel with internal training and guidance to ensure they are informed about the LIBOR transition and any internal policies, procedures, and guidance. The Division noted that many firms are actively engaged with service providers, sub-advisers, and third-party managers, including working with fund administrators and pricing and data providers to understand transition readiness and using due diligence questionnaires to assess the transition preparedness of sub-advisers and third-party managers. The Division found that firms are addressing their fiduciary duties through remediating contracts, in the case of direct client exposure, and due diligence on third-

party fund managers, in the case of indirect client exposure.

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Please see our [client alert](#) on this subject.

The SEC's risk alert is available at [www.sec.gov/files/risk-alert-libor-transition-preparedness-051123.pdf](http://www.sec.gov/files/risk-alert-libor-transition-preparedness-051123.pdf).

## **SAFEGUARDING CUSTOMER RECORDS AND INFORMATION AT BRANCH OFFICES**

On April 26, 2023, the Division published a risk alert directed at broker-dealers and registered investment advisers to remind them of their obligations to implement at their branch offices policies and procedures under the Safeguards Rule of Regulation S-P (the "Safeguards Rule"). Generally, the Safeguards Rule requires investment advisers and broker-dealers to adopt written policies and procedures that address the protection of customer records and information. Specifically, the Division reminds investment advisers and broker-dealers that "[t]hese written policies and procedures must be reasonably designed to ensure the security and confidentiality of customer records and information, protect against any anticipated threats or hazards to the security or integrity of customer records and information, and protect against unauthorized access to or use of customer records or information that could result in substantial harm or inconvenience to any customer."

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Please see our [client alert](#) on this subject.

The SEC's risk alert is available at [www.sec.gov/files/risk-alert-safeguarding-info-branch-offices-042623.pdf](http://www.sec.gov/files/risk-alert-safeguarding-info-branch-offices-042623.pdf).

## **OBSERVATIONS FROM EXAMINATIONS OF NEWLY-REGISTERED ADVISERS**

On March 27, 2023, the Division published a risk alert summarizing the SEC staff's observations from examinations of newly-registered investment advisers. The Division discusses the focus areas reviewed during examinations of newly-registered advisers and shares staff observations regarding compliance policies and procedures, disclosures, and marketing practices. Notably, the SEC staff's review of newly-registered adviser examinations identified issues in three particular areas, including:

- (1) **Compliance Policies and Procedures:** Specifically, compliance policies and procedures (1) did not adequately address certain risk areas applicable to the firm; (2) omitted procedures to enforce stated policies; and/or (3) were not followed by advisory personnel because personnel were not aware of policies or policies were not consistent with businesses or operations. Additionally, annual compliance reviews did not address the adequacy of the advisers' policies and procedures and the effectiveness of their implementation.
- (2) **Disclosure Documents and Filings:** Required disclosure documents contained omissions or inaccurate information and untimely filings. Such omissions and inaccuracies were related to (1) fees and compensation, (2) business or operations, (3) services offered to clients, (4) disciplinary information, (5) websites and social media accounts, and (6) conflicts of interest.
- (3) **Marketing:** Certain marketing materials appeared to contain false or misleading information, particularly with respect to advisory personnel experience, credentials, and past performance. Additionally, underlying documentation to substantiate factual claims

made in marketing materials was found to be insufficient.

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Please see our [client alert](#) on this subject.

The SEC's risk alert is available at [www.sec.gov/files/risk-alert-newly-registered-ias-032723.pdf](http://www.sec.gov/files/risk-alert-newly-registered-ias-032723.pdf).

### **OBSERVATIONS FROM BROKER-DEALER EXAMINATIONS RELATED TO REGULATION BEST INTEREST**

On January 30, 2023, the Division published a risk alert that highlights common deficiencies and perceived weaknesses in broker-dealers' compliance with the obligations of Regulation Best Interest ("Reg BI") that were noted by the Division's recent examinations of broker-dealers. The Division describes risks that broker-dealers may consider to: (1) assess their supervisory, compliance, and/or other risk management systems related to these risks, and (2) make any changes as may be appropriate to address or strengthen such systems. In sharing these observations, the Division encourages broker-dealers to review their practices, policies, and procedures with respect to Reg BI to address the non-exhaustive list of issues raised in the risk alert. As the broker-dealer industry enters the third year of the Reg BI compliance requirement, additional guidance provided by the SEC may signal additional enforcement activity in this area.

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Please see our [client alert](#) on this subject.

The SEC's risk alert is available at [www.sec.gov/file/exams-reg-bi-alert-13023.pdf](http://www.sec.gov/file/exams-reg-bi-alert-13023.pdf).

## **2023 FINAL RULES**

### **SHORTENING THE SECURITIES TRANSACTION SETTLEMENT CYCLE**

On February 15, 2023, the SEC adopted rule amendments and new rules to: (1) shorten the standard settlement cycle for most securities transactions from two (2) business days after trade date (T+2) to one (T+1); (2) shorten the separate standard settlement cycle for firm commitment offerings priced after 4:30 p.m. from four (4) business days after trade date (T+4) to T+2; (3) improve the processing of institutional trades through new requirements for broker-dealers and registered investment advisers related to same-day affirmations; and (4) facilitate straight-through processing through new requirements applicable to clearing agencies that are central matching service providers (CMSPs). The new rule aims to reduce the credit, market, and liquidity risks in securities transactions faced by market participants. The new rule also requires registered investment advisers to make and keep records of the allocations, confirmations, and affirmations for certain securities transactions. Specifically, for transactions subject to Rule 15c6-2(a), registered investment advisers are required to make and keep records of each confirmation received, and of any allocation and each affirmation sent or received, with a date and time stamp for each indicating when it was sent or received. The effective date of the amendments and new rules was May 5, 2023, with a compliance date of May 28, 2024.

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For more information on the rules shortening the securities transaction settlement cycle, please refer to the [Final Rule](#).

### **AMENDMENTS TO FORM PF**

On May 3, 2023, the SEC adopted certain amendments to Form PF which increase the reporting burdens (in some instances, significantly)

for (i) large hedge fund advisers (*i.e.*, SEC-registered investment advisers managing at least \$1.5 billion in hedge fund assets); (ii) private equity fund advisers (*i.e.*, SEC-registered investment advisers managing at least \$150 million in private equity fund assets); and (iii) large private equity fund advisers (*i.e.*, SEC-registered investment advisers managing at least \$2 billion in private equity assets under management). In summary, the amendments:

- (1) Require large hedge fund advisers to file a current report as soon as practicable, but no later than 72 hours after, the occurrence of certain events that the SEC believes could signal significant stress or other signals of systemic risk;
- (2) Require all private equity fund advisers to file a report within 60 days after the end of any fiscal quarter where one or more of the following events have occurred: a general partner removal, investor elections to terminate a private fund or terminate a private fund's investment period; and adviser-led secondary transactions;
- (3) Require large private equity fund advisers to report on an annual basis (rather than on a current basis) when general partner or limited partner clawbacks in excess of 10 percent of a fund's aggregate capital commitments have occurred (including the effective date thereof, and the reason for any such clawback); and
- (4) Amend existing Section 4 of Form PF for large private equity fund advisers, which contains certain informational reporting requirements.

On July 12, 2023, the SEC adopted amendments to Form PF, the confidential reporting form for certain SEC-registered investment advisers to private funds, to require additional information regarding the liquidity funds they advise that is generally aligned with the amended reporting for money

market funds. The reporting form amendments will become effective June 11, 2024.

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Please see our [client alert](#) on this subject for additional information.

## NEW RULES AND AMENDMENTS TO PRIVATE FUND ADVISER RULES

On August 23, 2023, the SEC adopted new rules and amendments which impact SEC-registered private fund advisers, as well as most private fund advisers that are not SEC-registered (including exempt reporting advisers and foreign private advisers). The Private Fund Adviser Rules consist of five sets of regulations and prohibitions referred to as the Restricted Activities Rule, Preferential Treatment Rule, Quarterly Statement Rule, Audit Rule and Adviser-Led Secondary Rule. The final rules apply to investment advisers differently depending on their SEC-registration status, their location and the type and location of the private funds they advise. The Private Fund Adviser Rules do not apply to investment advisers with respect to securitized asset funds ("SAF advisers"). These advisers will not be required to comply with the final rules solely with respect to the securitized asset funds ("SAFs") they advise. The adopting release also requires all SEC-registered investment advisers (including those that do not manage private funds) to document their annual compliance reviews.

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Please see our [client alert](#) on this subject for additional information.

## 2023 PROPOSED SEC RULES

### PROPOSED SAFEGUARDING RULE TO REPLACE CUSTODY RULE

On February 15, 2023, the SEC proposed significant amendments to Rule 206(4)-2, more commonly known as the custody rule (the “Custody Rule”). The proposed rule would replace the Custody Rule with Rule 223-1 safeguarding client assets (the “Safeguarding Rule”). The proposed Safeguarding Rule greatly expands the scope of investment advisers’ responsibilities and duties to their clients by:

- (1) Applying to all client assets over which an investment adviser has custody, including other positions held in a client’s account. This expanded scope potentially would cover digital assets, financial contracts held for investment purposes, and physical assets such as artwork, real estate interests, precious metals, and physical commodities;
- (2) Including discretionary authority within the definition of custody;
- (3) Increasing certain qualified custodian requirements;
- (4) Limiting the privately offered securities exception, providing that the uncertificated securities must be capable of only being recorded on the non-public books of the issuer or its transfer agent in the name of the client as it appears in the adviser’s required records;
- (5) Further segregating client assets over which an adviser has custody by implementing additional requirements;
- (6) Further specificity in the delivery of notice to the client in writing upon opening an account with a qualified custodian on its behalf; and
- (7) Creating additional requirements for the surprise examination requirements.

Like the Custody Rule, the proposed Safeguarding Rule would not apply to exempt reporting advisers.

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Please see our [client alert](#) on this subject for additional information.

### PROPOSED RULE TO ADDRESS CONFLICTS OF INTEREST ASSOCIATED WITH THE USE OF PREDICTIVE DATA ANALYTICS BY BROKER-DEALERS AND INVESTMENT ADVISERS

On July 26, 2023, the SEC proposed new rules under the Exchange Act and the Advisers Act to eliminate, or neutralize the effect of, certain conflicts of interest associated with broker-dealers’ or investment advisers’ interactions with investors using technologies that optimize for, predict, guide, forecast, or direct investment-related behaviors or outcomes. The SEC also proposed amendments to rules under the Exchange Act and Advisers Act that would require firms to make and maintain certain records in accordance with the proposed conflicts rules.

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For more information about the proposed rules, please refer to the [Proposed Rule](#).

### PROPOSED RULE AMENDMENTS TO THE INTERNET ADVISER EXEMPTION

On July 26, 2023, the SEC proposed rule amendments to the Internet adviser exemption, available under Rule 203A-2(e) of the Advisers Act, which allows specific investment advisers providing services through the Internet to register with the SEC despite not meeting the SEC’s assets under management minimum threshold for registration. The proposed amendments to the Internet adviser exemption: (1) clarify that Internet investment advisers relying on the exemption must maintain



an operational interactive website at all times; (2) require that an Internet adviser provide investment advice to clients generated by the operational interactive website's software-based models, algorithms, or applications based on personal information clients supply through such website; (3) require that the Internet investment adviser provide investment advice to all clients solely through the operational website; and (4) require that the Internet adviser relying on the exemption make affirmative representations as to their eligibility to rely on the exemption.

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For more information on the proposed amendments to the Internet adviser exemption, please refer to the [Proposed Rule](#).

## PROPOSED RULE AMENDMENTS TO REGULATION S-P

On March 15, 2023, the SEC proposed amendments to Regulation S-P that would require brokers and dealers, investment companies, and investment advisers registered with the SEC to adopt written policies and procedures for incident response programs to address unauthorized access to or use of customer information, including procedures for providing timely notification to individuals affected by an incident involving sensitive customer information designed to help affected individuals respond appropriately. The proposed amendments to Regulation S-P broaden the scope of safeguarding customer information. The proposed amendments also include requirements to maintain written records documenting compliance with the proposed amended rules.

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For more information on the proposed amendments to Regulation S-P, please refer to the [Proposed Rule](#).

## OTHER NOTABLE REGULATORY DEVELOPMENTS

### FINCEN ADVANCES INVESTMENT ADVISER AML RULE TO WHITE HOUSE

On January 12, 2024, it was reported that FinCEN forwarded a plan to impose anti-money laundering requirements on investment advisers to the Office of Information and Regulatory Affairs ("OIRA"), which means a proposed rule may be published soon.

According to the OIRA's website, "FinCEN intends to issue a notice of proposed rulemaking that would prescribe minimum standards for anti-money laundering programs to be established by certain investment advisers and to require such investment advisers to report suspicious activity to FinCEN pursuant to the Bank Secrecy Act."

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See [here](#).

### CORPORATE TRANSPARENCY ACT

Congress passed the Corporate Transparency Act ("Transparency Act") in January 2021 as part of its efforts to prevent and combat money laundering, terrorist financing, tax fraud and other financial crimes. In September 2022, FinCEN published a final rule (the "BOI Reporting Rule") that implements the beneficial ownership information reporting requirements of the Transparency Act, which became effective January 1, 2024. The BOI Reporting Rule requires privately held corporations, limited liability companies, and other similar entities (including statutory trusts) created in, or registered to do business in, any of the states in the U.S. to report certain information about their beneficial owners to FinCEN.



## Reporting Companies

Generally, the reporting requirements of the Transparency Act apply to all “Reporting Companies.” A Reporting Company is defined in the Transparency Act as a “corporation, limited liability company, or other similar entity that is: (i) created by the filing of a document with a secretary of state or a similar office under the law of a State or Indian Tribe; or (ii) formed under the law of a foreign country and registered to do business in the U.S. by the filing of a document with a secretary of state or a similar office under the laws of a State or Indian Tribe.”

The Transparency Act provides certain exceptions from the definition of a Reporting Company. The exceptions that apply to private funds and investment advisers are listed below.

1. Investment companies registered with the SEC.
2. SEC-Registered Manager.
3. Investment advisers that are exempt from registration with the SEC because they only manage venture capital funds (“Exempt VC Fund Adviser”).
4. Any pooled investment vehicle relying on Section 3(c)(1) or 3(c)(7) of the ICA that is operated or advised by: (i) a bank, a federal credit union or an SEC-registered broker or dealer; (ii) an Exempt VC Fund Adviser; or (iii) an SEC-Registered Manager that identifies the pooled investment vehicle on its Form ADV (but not fund structuring vehicles, such as intermediate holding companies or “blockers”).
5. Certain entities registered with the CFTC.
6. Large Operating Companies, *i.e.*, any entity that (i) has more than 20 full-time employees in the U.S., (ii) filed in the previous year federal income tax returns showing more than \$5,000,000 in gross receipts or sales, and (iii) has an operating presence at a physical office within the U.S.
7. Entities whose ownership interests are entirely controlled or wholly owned by an entity that is exempt under the Transparency Act (*e.g.*, a wholly owned subsidiary of a pooled investment vehicle whose ownership interests are entirely controlled by an SEC-Registered Manager).

## Beneficial Owners

Reporting Companies must report certain beneficial ownership information about all their beneficial owners. A beneficial owner of a Reporting Company is any individual (*i.e.*, natural person) who, directly or indirectly:

1. Owns 25% or more of the company’s ownership interests (*e.g.*, any equity or similar interest (whether voting or not), including a profit interest or an instrument convertible to an ownership interest); or
2. Exercises “substantial control” over the company (*e.g.*, senior officers of the company, an individual with the authority to appoint or remove senior officers or a majority of the board of directors or similar body, any person with substantial influence over important decisions made by the company, or any individual that has another form of “substantial control”).

## Beneficial Ownership Information and Reporting Company Information

The following information about beneficial owners must be reported: (i) legal name, (ii) date of birth, (iii) residential address, and (iv) identification number (*e.g.*, passport number). Individuals may obtain a FinCEN identifier from FinCEN and the Reporting Company may report this identifier in lieu of the information above.

The following information about Reporting Companies must be reported: (i) legal name, trade

name, street address, state of formation and EIN and (ii) the legal name, date of birth, street address (if outsourced, otherwise residential address) and identification number (e.g., passport number) for the individual who is the “company applicant” (only required for companies created or registered to do business in the U.S. on or after January 1, 2024).

### **Effective Dates**

1. Existing Entities. Entities formed before January 1, 2024, must report (i) beneficial ownership information and (ii) Reporting Company information on or before January 1, 2025.
2. Entities Formed in 2024. Entities formed between January 1, 2024, and December 31, 2024, must report (i) beneficial ownership information and (ii) Reporting Company information within 90 days of formation or registration.
3. Entities Formed after 2024. Entities formed on or after January 1, 2025, must report (i) beneficial ownership information and (ii) Reporting Company information within 30 days of formation or registration.

A change to beneficial ownership information and Reporting Company information must be filed within 30 days of such change.

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For more information on the Transparency Act rules, please see our client briefing [here](#).

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