

Private Funds: A New Age

Old problems, new rules, emerging risks

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www.regcompliancewatch.com

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Our Agenda

- Part One: What happened? (Background)**
- Part Two: What's happening? (Exams, Enforcement)**
- Part Three: What happens next? (Practice Tips)**
- Part Four: Final thoughts**

Part One: What happened?

Dodd-Frank (2010)

- Post-recession exams/enforcement

2020 Risk Alert

- Fees, expenses
- Conflicts
- Disclosures
- MNPI

2022 Risk Alert

- Disclosures (again)
- Marketing rule
- Books and records
- Due diligence
- Hedge clauses

2023 Risk Alert

- Newly registered advisers

Part One: What happened? (cont)

New rules

- **Marketing rule (2020)**
 - Hypothetical, net v. gross performance
 - Substantiation
- **Form PF**
 - From disclosure to prudential regulation?

Proposed rules

- **Private fund compliance**
- **ESG disclosure**
- **Custody rule**
- **Outsourcing rule**
- **And many, many more**

Part Two: What's happening (exams)?

Questions have gotten deeper, more thorough, with longer lookbacks.

Focus includes:

- **Marketing rule**
- **Books and records (off-channel communications)**
- **ESG**
- **Outside vendors**
- **Valuations, fees, expenses**
- **Disclosures**
- **Conflicts**
- **Liquidity**

Part Two: What's happening? (Enforcement)

At least 113 cases against private fund advisers or their executives since 2018:

- Registration: 17
- Custody rule: 13
- Valuations: 11
- Disclosures: 11
- Conflicts: 9
- MNPI: 3

Part Three: What happens now?

Compliance Tips

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