

BROKER-DEALER AND INVESTMENT ADVISOR REGULATORY ENFORCEMENT, DISPUTES AND INVESTIGATIONS

OVERVIEW

Working with Fortune 500 broker-dealers, their executives and relevant teams, to small independent investment advisors, financial planners, insurance agents and companies, BCLP guides clients in the securities industry through an ever-changing regulatory landscape. Providing thoughtful counsel and, when necessary, strong advocacy in disputes to help them achieve their business objectives, our clients regularly turn to us for the most complicated and highest-exposure matters.

Our securities industry clients have access to a deep bench of professionals with the experience necessary to efficiently and effectively bring matters to a close. Our objective is to make sure we understand the business model of each of our securities industry clients and tailor our representation to achieve optimum results consistent with their business goals.

Even with careful front-end compliance and regulatory planning, industry participants consistently face inquiries, investigations, and enforcement actions by government agencies such as the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the Consumer Financial Protection Bureau, and self-regulatory organizations (SRO) such as the Financial Industry Regulatory Authority (FINRA). When investigations or enforcement actions arise, clients regularly count on our team to provide outstanding representation in all aspects of the investigation and enforcement process at both the federal and state level. Our team includes the former Deputy Regional Chief Counsel for the Midwest Region of Financial Industry Regulatory Authority, Inc. (FINRA), a former Assistant Director in the Division of Enforcement at the Securities and Exchange Commission (SEC), a former Assistant United States Attorney who handled significant white-collar matters, and a former in-house counsel for a major broker-dealer. We not only have years of experience in representing broker-dealers and investment advisors, we also have established longstanding relationships with the regulators.

We also routinely defend brokerage firms, individual brokers, investment advisors and other financial industry clients in an array of complex disputes, including class actions, FINRA arbitrations, and other proceedings across the country. We regularly handle claims concerning allegations of “selling-away,” unauthorized trading, fraud, inadequate supervision, money-market sweeps, unsuitability, churning, and violations of state and federal securities laws, including state Blue Sky laws, the Securities Exchange Act of 1934, the Securities Act of 1933, and the Investment

Advisors Act of 1940. We also represent clients in intra-industry disputes such as raiding and U-5 defamation claims.

Our breadth of knowledge and experience in the financial industry means our clients don't have to waste time bringing us up to speed on the basics. We regularly defend claims arising from investments in a wide variety of financial products, including stocks, bonds, options, real estate investment trusts (REITs), market linked notes and CDs, mutual funds, structured products, variable annuities, fixed annuities, equity indexed annuities, auction rate securities, asset protection trusts, and private placements.

MEET THE TEAM



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FDI Regulation in the US, UK, France & Germany

The regulation of foreign direct investment ("FDI") has become an increasingly important feature of the regulatory landscape for investors. Globally, there is a trend towards greater FDI restrictions although the degree and nature of regulation varies significantly across jurisdictions. In the below we highlight key aspects of FDI regulation in the United States ("US"), United Kingdom ("UK"), France and Germany. Contents Types of deals reviewed in the US, UK, France and Germany Notification process in the US, UK, France and Germany Sanctions for non-compliance in the US, UK, France and Germany Recent trends and developments in the US, UK, France and Germany Other points for investors to consider in the US, UK, France and Germany

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The SEC's Continued Efforts to Dive Feet First into Climate Control and ESG Initiatives

On May 25, 2022, the U.S. Securities and Exchange Commission ("SEC") provided notice of proposed rulemaking aimed at Investment Advisers ("Advisers"), Investment Companies and Business Development Companies (collectively "Funds") that market themselves as incorporating environmental, social and governance ("ESG") factors into their investment selection process or overall investment strategies. The public comment period will be open for 60 days following the SEC's announcement. The proposed rules seek to standardize the categorization of ESG strategies and require Advisers and Funds to provide more specific disclosures in their fund prospectuses, annual reports, and brochures, as well as enhanced ESG reporting requirements on Forms N-CEN and ADV Part 1A, with the quantity of disclosures commensurate with the standardized categorizations. The SEC's proposed rules follow a related announcement...

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The SEC's Recent Observations from Examinations into Private Fund Advisers

On January 27, 2022, the SEC released a Risk Alert from the Division of Examinations ("EXAMS"), wherein it reported concerns noted during its recent examinations of investment advisers who manage private funds ("private fund advisers"). This is the SEC's third Risk Alert in the last five (5) years regarding compliance issues in this space. Private fund advisers are likely to be a continued focus for the SEC. In the Risk Alert, EXAMS noted four problematic areas related to private fund advisers who 1) acted inconsistently with their obligations under fund disclosures, 2) made misleading marketing disclosures, 3) failed to perform appropriate due diligence before recommending investments, or 4) used hedge clauses to limit their liability for breaches of fiduciary duty. Below is a summary of the SEC's observations.

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September 1st Implementation of FINRA Rule 1017(a)(7) - “Final Criminal Matters” and “Specified Risk Events” Defined

Key Takeaways This alert is intended to supplement our prior May 11th alert titled “Through the Issuance of New Rules Aimed at Recidivist Brokers and the Firms That Hire Them, FINRA Loudly Exclaims to its Membership “Can You Hear Me Now?” As set forth in FINRA Regulatory Notice 21-09, member firms will be required after September 1, 2021, to file a Continuing Membership Application (“CMA”) or, alternatively, seek a Materiality Consultation (“MC”), when a natural person seeks to become an owner, control person, principal, or even a registered person with a member firm if that individual has, in the past five years, one or more “final criminal matters” or two or more “specified risk events.” At the time we released our May 11th alert, FINRA had yet to define “final criminal matters” and “specified risk events”; rather, its Regulatory Notice 21-09 stated that FINRA would post such definitions on its website “soon” and m...

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