


Protecting Investors | Maintaining Market Integrity | Facilitating Capital Formation

1




Panel II: Private Fund Adviser Topics

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- Michael Neus
- Alpa Patel
- Adam Reback
- Igor Rozenblit

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2




Private Fund Unit

- **Leadership:** Igor Rozenblit and Jennifer Duggins
- **Location:** SEC Regions with high concentration of private fund advisers
- **Goals:**
 1. Build examiner “pattern recognition”
 2. Use industry knowledge to conduct more thorough and efficient exams
 3. Understand compliance risks through analysis of industry dynamics

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3



Private Fund Adviser Topics— Private Equity


“Legacy” Risks

- Expense Shifting**
 - Senior Advisors
 - Back Office Outsourcing
 - Procurement Programs
- Hidden Fees**
 - Monthly Fee Accelerations
 - Offset Issues
 - Other PortCo Fees
- Favoritism**
 - Co-investment All’cation
 - PortCo. Lending by LPs
 - Primary/Secondary/ Mezzanine Conflicts
- Marketing**
 - Valuation
 - Deal Attribution
 - Hidden Team Issues

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4



Private Fund Adviser Topics— Private Equity


Real Estate Risks

- Expense Shifting**
 - Front office outsourcing – Asset management spinouts
 - Back office outsourcing – Legal, accounting
- Conflicts of Interest**
 - Affiliated property managers
 - Relationships with property managers
- Marketing**
 - Representing internal services as being provided at or below market price.
 - Disclosure regarding personnel chargebacks of affiliated property managers

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5



Private Fund Adviser Topics— Private Equity

Future Risks

Zombie/End of Life Issues

- Managing funds in liquidation without seeking extensions
- Fee offsets when no more management fee exists
- Fund Restructurings – Valuation in tenders; fiduciary duty in asset sales
- PortCo – Expense Shifting and Disclosure of Fees


Marketing

- Representations made in fund extension process
- Performance attribution in spinouts
- Disclosure of net returns where management fee is paid outside of the fund

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6



Private Fund Adviser Topics— Hedge Fund

Proprietary Capital/Side-by-Side Management

- Disclosure of proprietary/near-prop accounts
- Disclosure of liquidity differences between diff fund classes/prop accounts/SMA
- Trade, Expense, Capital Allocation


Liquidity and Valuation

- Potential for scope creep into illiquid securities in the face of draw downs
- Accurate liquidity assessment of semi-liquid securities (e.g., *certain EM Bonds*)
- Accurate valuation of side pockets in uncertain markets

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7



Private Fund Adviser Topics— Hedge Fund


Compliance

- Potential for weaker programs at smaller advisers
- Conflicts of interests at larger advisers
- Exclusion of compliance from research process
- Lack of compliance buy-in from business

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8



Private Fund Adviser Topics— Compliance

Keys to CCO Success

1. Independence, access and empowerment
2. Familiarity with all aspects of the business → Credibility
3. Knowledge of formation docs and disclosures
4. Expert in identifying and curing conflicts

Keys to Compliance Program Success

1. Needs palpable buy-in from business
2. Update P&P for current business
3. Clear expense allocation P&P
4. Complete, accurate and updated regulatory filings

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