

# NEW PRIVATE FUND ADVISER RULES: OVERVIEW CHART

The below chart<sup>1</sup> provides a summary overview of some of the new restrictions and requirements for private fund advisers, as adopted on August 23, 2023. A Federal court vacated these [new rules](#) as of June 5, 2024. See [here](#) for more information.

		Who <sup>2</sup>		When will this rule apply? <sup>3</sup>
		Registered Private Fund Advisers	All Other Private Fund Advisers <sup>4</sup>	
<b>PREFERENTIAL TREATMENT (E.G., "SIDE LETTERS")</b>	<p>Prohibits advisers from granting preferential redemption or information rights about portfolio holdings that would have a material, negative effect on other investors in the private fund or a similar pool of assets. Legacy status and limited exemptions are available.</p> <p>For all types of preferential treatment, advisers must:</p> <ul style="list-style-type: none"> <li>provide advance written notice to prospective investors of preferential treatment related to any material economic terms; and</li> <li>provide timely after-the-fact and annual written notices to current investors of all preferential treatment.</li> </ul>	✓	✓	<p>Advisers with \$1.5 billion or more in private fund assets under management (Larger Advisers): 12 months</p> <p>Advisers with less than \$1.5 billion in private fund assets under management (Smaller Advisers): 18 months</p>
<b>RESTRICTED ACTIVITIES</b>	<p>Restricts advisers from engaging in certain activities, including (among others) charging or allocating certain fees and expenses to private funds, unless the adviser meets certain disclosure and, in some cases, consent-based exceptions. Legacy status is available.<sup>5</sup></p>	✓	✓	<p>Larger Advisers: 12 months</p> <p>Smaller Advisers: 18 months</p>
<b>QUARTERLY STATEMENTS</b>	<p>Requires SEC-registered advisers to provide investors with quarterly information about private fund adviser compensation, fund fees and expenses, and performance.</p>	✓		18 months
<b>ANNUAL AUDIT</b>	<p>Requires SEC-registered advisers to cause</p> <ul style="list-style-type: none"> <li>each private fund they advise to undergo an annual audit as set forth in the custody rule (Advisers Act rule 206(4)-2), and</li> <li>audited financial statements to be delivered to investors.</li> </ul>	✓		18 months
<b>ADVISER-LED SECONDARIES</b>	<p>Requires SEC-registered advisers that engage in adviser-led secondary transactions:</p> <ul style="list-style-type: none"> <li>to obtain and distribute a fairness or valuation opinion; and</li> <li>to provide a summary of any material business relationships between the adviser or its related persons and the independent opinion provider.</li> </ul>	✓		<p>Larger Advisers: 12 months</p> <p>Smaller Advisers: 18 months</p>
<b>RECORDEEING</b>	<p>Requires SEC-registered advisers to retain books and records related to each of the above requirements.</p>	✓		See above for the timing for each of the related requirements
<b>COMPLIANCE POLICY ANNUAL REVIEW</b>	<p>Requires SEC-registered advisers to document in writing the annual review they conduct pursuant to the compliance rule (Advisers Act rule 206(4)-7). This applies to all registered advisers, including those that do not advise private funds.</p>	✓		60 days

<sup>1</sup> This resource represents the views of the staff of the [Office of the Advocate for Small Business Capital Formation](#). It is not a rule, regulation, or statement of the Securities and Exchange Commission ("Commission"). The Commission has neither approved nor disapproved its content. This resource, like all staff statements, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person. This resource does not provide legal advice.

<sup>2</sup> Investment advisers to securitized asset funds will not be required to comply with the preferential treatment, restricted activities, quarterly statement, annual audit, adviser-led secondaries, and recordkeeping requirements of the final rules solely with respect to the securitized asset funds that they advise.

<sup>3</sup> Time periods begin after the rules are published in the Federal Register.

<sup>4</sup> Including exempt reporting advisers and other advisers who are not registered with the Commission.

<sup>5</sup> Further, an adviser may not charge fees or expenses related to an investigation that results in a sanction for a violation of the Advisers Act or the related rules.