Razor Alert

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US Proposes Investor Protection and Hedge Fund Registration Legislation

Investor Protections

The Administration proposed legislation to strengthen the SEC's authority to protect investors, outlining steps to establish consistent standards for all those who provide investment advice about securities, to improve the timing and the quality of disclosures, to require accountability from securities professionals, and to establish a permanent Investor Advisory Committee to keep the voice of investors present at the SEC.

The proposed legislation would: (1) establish consistent standards for broker-dealers and investment advisers, (2) would give the SEC authority to restrict or limit mandatory arbitration, (3) give the SEC the authority to require disclosure prior to the purchase of a fund, (4) would clarify the SEC's authority to conduct consumer testing for better assessment of its rules and programs, (5) expand protections for whistleblowers, (6) harmonize liability standards so that the SEC can pursue those who aid and abet securities fraud, (7) require accountability of securities professionals throughout the financial services industry, and (8) establish a permanent investor advisory committee.

Hedge Funds

The US Treasury proposed legislation to require all advisers to hedge funds and other private pools of capital, including private equity and venture capital funds, to register with the Securities and Exchange Commission (SEC). In recent years, the United States has seen explosive growth in a variety of privately-owned investment funds, including hedge funds, private equity funds, and venture capital funds. At various points in the financial crisis, de-leveraging by such funds contributed to the strain on financial markets. Because these funds were not required to register with regulators, the government lacked the reliable, comprehensive data necessary to monitor funds' activity and assess potential risks in the market.

Protect Investors from Fraud and Abuse

Require Advisers To Private Investment Funds to Register With The SEC. Although some advisers to hedge funds and other private investment funds are required to register with the Commodity Futures Trading Commission (CFTC), and some register voluntarily with the SEC, current law generally does not require private fund advisers to register with any federal financial regulator. The Administration's legislation would, for the first time, require that all investment advisers with more than $30 million of assets under management to register with the SEC. Once registered with the SEC, investment advisers to private funds will be subject to important requirements such as substantial regulatory reporting requirements with respect to the assets, leverage, and off-balance sheet exposure of their advised private funds, disclosure requirements to investors, creditors, and counterparties of their advised private funds, strong conflict-of-interest and anti-fraud prohibitions, robust SEC examination and enforcement authority and recordkeeping requirements, and requirements to establish a comprehensive compliance program.

Require Increased Disclosure Requirements. The Administration's legislation would require that all investment funds advised by an SEC-registered investment adviser be subject to recordkeeping requirements; requirements with respect to disclosures to investors, creditors, and counterparties; and regulatory reporting requirements.

Links

TG-205, US Treasury FACT SHEET: Administration’s Regulatory Reform Agenda Moves Forward: Legislation for Strengthening Investor Protection Delivered to Capitol Hill

TG-214, US Treasury FACT SHEET: Administration’s Regulatory Reform Agenda Moves Forward: Legislation for the Registration of Hedge Funds Delivered to Capitol Hill