

Regulatory Guidelines for Private Equity Firms



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Situation

Signed into law in July 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act brought the most significant changes to U.S. financial regulation since the 1930s. In addition to the highly publicized regulatory changes covering capital investment by banks and insurance companies, the Act, among other provisions, introduces new regulation of private equity funds and hedge funds.

Perhaps the firms most affected by the Act's passage are emerging and middle-market private equity firms. Before Dodd-Frank, many such firms were not under the purview of the SEC. But the new Act now requires advisers to private funds with more than \$150 million in assets under management to register with the SEC as an investment adviser. Registration requires that these advisers design and implement a compliance program and designate a chief compliance officer. Such firms, which previously may have felt they could "fly under the SEC's radar," can now anticipate an SEC review of their processes in the months or years to come.

Avoiding deficiencies and enforcement actions is, of course, important to any entity that falls under the Commission's oversight. And because institutional investors are crucial to a firm's ultimate success, implementing an adequate compliance program satisfactory to institutional investors becomes even more important.

Action

The professionals at Cipperman Compliance Services begin any engagement by providing every private equity fund clients with a state-of-the-art compliance program created and refined over many years with dozens of fund managers. But that's just the beginning. The Dodd-Frank Act's compliance requirements took effect on April 1, 2012, but the SEC faces uncharted territory in regulating private equity firms. Many of the SEC forms, rules, exam questionnaires, and procedures simply don't fit with private equity firms. Even the SEC has acknowledged that it will refine its rules and procedures as it better understands the private equity world. So CCS professionals work with private equity firm clients to tailor the compliance program to each unique operating environment. The CCS team draws on its collective experience to predict what the SEC will require as the rules evolve and advise its clients accordingly. CCS tailors the programs so that it implements a compliance infrastructure that will satisfy the regulators without becoming more of an operational impediment than necessary. This process requires a great deal of interaction and communication between CCS and its private equity clients.

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Key areas of focus typically include:

- personal securities transactions
- fund valuation
- insider trading
- conflicts of interest
- client entertainment and gifts
- marketing

CCS professionals' years of experience enable the firm to provide the private equity firm a flexible offering of additional services including assisting in the operational implementation of procedures; risk assessments and control reviews; documentation reviews of underlying funds; and due diligence procedures.

Outcome

The compliance program designed by CCS professionals not only ensures regulatory compliance with Dodd-Frank Act guidelines, but ensures the program fits the firm's organizational and operational structure. And while the private equity firm is ultimately responsible for implementing the program, CCS professionals work with the firm – in a hands-on or hands-off approach, as required by the client – to test the program's effectiveness and its long-term viability. This work approach typically involves compliance training and ongoing consulting to suit the firm's needs, including regular meetings on a weekly, bi-weekly, monthly or quarterly basis.

Benefits

Passage of the Dodd-Frank Act represents a “brave new world” for private equity firms – one requiring a conscientious and informed approach to business operations and strict adherence to new regulatory standards. CCS professionals, each with a wealth of experience in providing third-party perspective on regulatory compliance for clients large and small, provide compliance solutions tailored to the needs of the individual firm while preparing clients for the constantly changing regulatory landscape.

About Cipperman Compliance Services

Cipperman Compliance Services provides CCO and compliance services to registered funds and money managers. We customize compliance solutions to fit your business: full or partial compliance outsourcing, consulting engagements, and tailored compliance tools. Cipperman & Company is a law firm devoted exclusively to the investment management industry. We work on a wide range of transactional and regulatory matters, with concentration on four core areas: Fund Formation, Distribution, Compliance, and Technology.

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