February 23, 2015

Private Equity Alert

Periodic Regulatory Filings and Annual Compliance Obligations Applicable to Private Fund Sponsors

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We would like to remind our private equity clients of important regulatory filings and compliance obligations incumbent upon private fund sponsors during 2015. Where applicable, we have indicated the deadline by which regulatory filings have to be completed for investment advisers having a fiscal year end of December 31. We have included discussions of regulatory developments that may affect an adviser's compliance obligations, such as the Securities and Exchange Commission's (the SEC) recent focus on fees and expenses charged by private equity fund managers and cybersecurity issues. Private fund sponsors should also review their partnership agreements and side letters with investors for any additional contractual obligations and reporting requirements.[1]

Form ADV
(Annual Amendment due by March 31, 2015)

Investment advisers that are registered with the SEC under the Investment Advisers Act of 1940 (the Advisers Act), and advisers filing as exempt reporting advisers with the SEC, must file an annual amendment to Form ADV within 90 days of the end of their fiscal year (i.e., by March 31 for advisers with a fiscal year end of December 31).[2]

Registered investment advisers must file an updated Part 1 and Part 2A brochure of such adviser's Form ADV, while exempt reporting advisers must file an updated Part 1 of such adviser's Form ADV. Registered investment advisers are also required to update, but are not required to file with the SEC, Part 2B brochure supplements of their Form ADV. In addition, registered investment advisers are required to provide a copy of the updated Form ADV Part 2A brochure (or a summary of changes with an offer to provide the complete brochure) and, in certain cases, Part 2B brochure supplement to each client.

Form PF
(Annual Filing due by April 30, 2015)

Registered investment advisers to private equity funds with more than $150 million of assets under management attributable to equity private funds (as of the last day of their most recent fiscal year) are required to file Form PF with the SEC within 120 days after such adviser's fiscal year end (i.e., by April 30, 2015 in the case of an adviser with a fiscal year end of December 31).[3] Form PF requires disclosure of the adviser's assets under management and information on each private fund it advises.

CFTC Filings

(Annual Affirmation of De Minimis *Exemption due by March 2, 2015)*

As a result of the rescission of Commodity Futures Trading Commission (CFTC) Rule 4.13(a)(4) and the inclusion of swaps in the definition of commodity interests, private fund sponsors investing in commodity interests should examine their portfolios and determine whether they are subject to registration with the National Futures Association (NFA) or if they are able to claim an exemption from such registration. Many private equity fund sponsors are able to rely on the exemption from registration with the NFA that is available under CFTC Rule 4.13(a)(3) (the *de minimis* exemption) and have claimed such exemption. For more information on the *de minimis* exemption and the changes made to the Commodity Exchange Act and the CFTC Rules by the Dodd-Frank Act, please see our September 2012 Private Equity Alert *Changes to CFTC Regulations Affecting Private Funds*.[4]

The *de minimis* exemption is subject to an annual affirmation which must be completed within 60 days after the end of each calendar year. Failure to affirm the exemption is deemed a withdrawal of the exemption once the 60 day period has elapsed. Private fund sponsors that do not qualify for the *de minimis* exemption may be subject to registration with the NFA as commodity pool operators (CPOs) and commodity trading advisors (CTAs).

Additionally, in September 2014, the CFTC granted exemptive relief enabling CPOs of private funds that are registered or exempt from registration by virtue of the *de minimis* exemption to engage in general solicitations pursuant to Rule 506(c) of Regulation D under the Securities Act of 1933 (the Securities Act) (which rule was promulgated in connection with the Jumpstart Our Business Startups (JOBS) Act to reduce restrictions on marketing certain private placements of securities). In order to rely on this relief, a private fund sponsor must make a notice filing with the CFTC.

Current Areas of SEC Focus

Through speeches by senior SEC officials and written guidance, the SEC has sent a clear message that the compliance programs of investment advisers to private funds will be subject to increased levels of scrutiny, and that the SEC is taking a "broken windows" approach by targeting small violations before they can become larger ones. Over the course of the last year, the following areas have been singled out for special attention by the SEC.

Allocation of Fees and Expenses – As discussed in our May 2014 Private Equity Alert *SEC Official Remarks on Recent OCIE Findings From Private Equity Fund Examinations*[5], the SEC found that over 50% of recently-examined private fund advisers have inadequate policies and procedures or inadequate disclosure relating to fund expenses or have shifted expenses from the adviser to the fund during the middle of the fund's life without proper disclosure to investors. The compensation of operating partners, the use of fund or portfolio company assets to pay adviser expenses and the acceleration of monitoring and similar fees were all specifically discussed. In addition, the SEC's Office of Compliance Inspections and Examinations (OCIE) has indicated that one of its examination priorities in 2015 will be fees and expenses charged to private equity funds. In light of this focus and recent enforcement actions in this area, it is vitally important that fund sponsors review their existing disclosure and compliance policies and procedures to ensure that their practices in these areas match their disclosure and are consistent with their fiduciary duty to clients.

Cybersecurity – In 2014, OCIE launched a cybersecurity initiative designed to assess cybersecurity preparedness in the securities industry and to obtain information about the industry's recent experiences with certain types of cyber threats. As part of this initiative, OCIE conducted sweep examinations of registered broker-dealers and registered investment advisers focused on cybersecurity governance, identification and assessment of cybersecurity risks, protection of networks and information, risks associated with remote customer access and funds transfer requests, risks associated with vendors and other third parties, detection of unauthorized activity, and experiences with certain cybersecurity threats. Among OCIE's findings was that 88% of examined broker-dealers and 74% of examined advisers reported being the subject of a cyber-related incident directly or through one or more of their vendors. The majority of the cyber-related incidents were related to malware and fraudulent emails. OCIE has also indicated that cybersecurity will remain an examination priority in 2015. Therefore, private fund sponsors should be on notice that the SEC expects them to have robust cybersecurity protocols in place in order to protect their clients' and investors' assets and non-public information.

Foreign Corrupt Practices Act (FCPA) – The SEC has indicated that it will scrutinize private equity sponsors with respect to compliance with the FCPA. The FCPA may be implicated by practices used by fund sponsors (or their agents) when raising money from sovereign wealth funds and other foreign governmental entities. In addition, private equity managers must perform appropriate FCPA diligence on portfolio companies to ensure they are in compliance with the statute.

Valuation – While the SEC generally is not in the business of second-guessing an adviser's valuation of an asset, the SEC has stated that the adviser must clearly disclose to investors the valuation methodologies it will use, and should not change methods absent a rational reason.

Marketing – The SEC has indicated concern with advisers' use of performance projections in marketing materials without adequate cautionary disclosure, as well as improper or insufficient disclosure regarding management team members, especially situations where the adviser has reason to know that a team member may not stay in his or her current role after fundraising ends.

Custody Rule

Registered investment advisers to private funds must comply with certain custody procedures, including generally maintaining client funds and securities with a qualified custodian and either (i) undergoing an annual surprise examination of client assets conducted by an independent public accountant or (ii) obtaining an audit of each private fund by an independent public accountant and delivering the audited financial statements, prepared in accordance with generally accepted accounting principles, to fund investors within 120 days of the fund's fiscal year end. Private fund sponsors should review their custody procedures to ensure compliance with these rules.

In August 2013, the SEC provided relief from the requirement that private fund advisers maintain certain privately offered certificated securities with qualified custodians, subject to certain conditions. For more information on this relief, please see our August 2013 Private Equity Alert *SEC Issues Guidance Update With Respect to Privately Offered Securities Under the Custody Rule*.[6] In addition, in July 2014, the SEC issued guidance regarding the circumstances under which a special purpose vehicle that is a "client" under the Advisers Act must undergo a separate audit (as opposed to being included in the audit of its related fund vehicle) in order to comply with the custody rule. For more information, please see our July 2014 Private Equity Alert *SEC Issues Guidance on the Application of the Custody Rule to Special Purpose Vehicles and Escrow Accounts*.[7]

The SEC has continued its focus on compliance with the custody rule, as illustrated by recent SEC enforcement actions against advisers for failures to engage an independent public accountant to conduct surprise exams and to maintain client assets with a qualified custodian.

Annual Review of Compliance Policies and Procedures

Registered investment advisers are required to perform a review to assess the adequacy of the adviser's compliance policies and the effectiveness of their implementation and, if necessary, to update their compliance policies and procedures on an annual basis. In determining the adequacy of an annual review, the SEC has indicated that it will consider a number of factors, including the persons conducting the review, the scope and duration of the review and the adviser's findings and recommendations resulting from the review. Written evidence of the results of the annual review should be kept and reviewed by the adviser's chief compliance officer, senior management and, if applicable, outside counsel. Employee compliance training should be conducted at least annually based on the results of the compliance review.

Review of Offering Materials

As a general disclosure matter, and for purposes of U.S. federal and state anti-fraud laws, an investment adviser must continually ensure that each of its fund offering documents is kept up to date, is consistent with its other fund offering documents and contains all material disclosures that may be required in order for investors to be able to make an informed investment decision.

Accordingly, it may be an appropriate time for an investment adviser to review its offering materials (including investor newsletters and pitch books) and confirm whether or not any updates or amendments are necessary. In particular, an investment adviser should take into account the impact of recent market conditions on its funds and review its current disclosure regarding: investment objectives and strategies; valuation practices; performance and related disclaimers; any mention of specific investments to confirm that there are no "cherry picking" issues; conflicts of interests; risk factors; personnel; service providers; "bad actor" disclosures (as described in further detail below); and any relevant legal or regulatory developments. In light of the SEC's focus on the allocation of private fund fees and expenses discussed above, managers must take special care in reviewing their practices and disclosure in this area.

Annual Privacy Policy Notice

Private fund sponsors are subject to SEC, CFTC and Federal Trade Commission regulations governing the privacy of certain confidential information. Under such privacy rules, private fund sponsors are required to send a privacy notice to each limited partner who is an individual at the start of such limited partner's relationship with the fund and annually thereafter. The privacy notice must describe the sponsor's policy regarding the confidentiality of the limited partner's non-public information.

Form D and Blue Sky Filings

Form D filings for private funds with ongoing offerings lasting longer than one year need to be amended on an annual basis, on or before the first anniversary of the initial Form D filing. Copies of Form D can be obtained by potential investors via the SEC's website. On an annual basis, private fund sponsors should also review their blue sky filings for each state to make sure they meet any renewal requirements. In some states late fees apply for late blue sky filings.

Bad Actor Rules

Rule 506(d) of Regulation D under the Securities Act, which took effect on September 23, 2013, prohibits a private fund from relying on the safe harbor private placement exemption contained in Regulation D if the fund, or certain specified persons or entities associated with the fund, are subject to disqualifying events as a result of bad acts. It is imperative for private fund sponsors that intend to rely on Regulation D to identify all persons and entities subject to the rule and conduct appropriate due diligence (including receiving written certifications) to insure that none are subject to disqualification. In addition, for funds that are engaging in continuous and/or long-term offerings, the diligence should be periodically refreshed.

Rule 506(d) generally applies to the bad acts of: the fund and its executive officers, directors and other officers participating in the offering; the fund's "affiliated issuers" (which include only issuers participating in the same offering, e.g., PIVs and feeder funds); the fund's general partner, manager, any general partner or managing member of such manager and any of their executive officers, directors and other officers participating in the offering; the fund's direct or indirect 20% beneficial owners; and any promoter or any person that has been or will be paid (directly or indirectly) remuneration for solicitation of limited partners in connection with the sale of interests in the fund and such person's general partner or managing member and its executive officers, directors or other officers participating in the offering.

Disqualifying events only result from sanctions by U.S. (not foreign) courts and regulators and generally include felonies, misdemeanors, court injunctions and restraining orders relating to the sale of securities; certain SEC cease-and-desist and disciplinary orders; and securities-related final orders of certain other U.S. regulators.

Any disqualifying event occurring prior to September 23, 2013 will not prevent an issuer from using Regulation D as long as the disqualifying event is adequately disclosed to investors. Any disqualifying event occurring on or after September 23, 2013 will prevent an issuer from using Regulation D. However, an issuer will not be disqualified from using Regulation D if it fails to discover a previous bad act but it establishes that it did not know and, in the exercise of reasonable care, could not have known that the bad act occurred. For more information on Rule 506(d) and the additional guidance provided by the SEC with respect to this rule, please see our July 2013 Private Equity Alert *SEC Adopts Final Rules Permitting General Solicitation in Private Offerings*[8] and our December 2013 Private Equity Alert *SEC Issues Guidance on Regulation D "Bad Actor" Rules*.[9]

State Lobbyist Registrations

Private fund sponsors should look at each state in which a public entity or a public employee retirement plan is an investor or a potential investor to determine if the investment adviser or its personnel are required to register as lobbyists. This may require engaging local counsel with knowledge of state and municipal laws and regulations.

Annual VCOC/Plan Assets Certifications

Many private equity funds limit "benefit plan investors" to less than 25% of any class of equity interest in a fund (the 25% test) so that such fund's assets are not deemed "plan assets" subject to the U.S. Employee Retirement Income Security Act of 1974 (ERISA), and some private equity fund sponsors have agreed to provide an annual certification to that effect. Such certification generally can be made at any time during the year, but typically investors wish to have a certification made as of a specified annual date, often as of the end of the year, for convenience. Such certifications must take into account the impact of transfers and withdrawals of fund interests during the applicable period, as well as the impact of different ownership percentages of any alternative investment vehicle, or investments, due to excuse and exclusion.

Other private equity funds operate as "venture capital operating companies" (VCOCs), and may have agreed to deliver an annual certification or opinion as to the fund's VCOC status. Such certification or opinion will require a determination as to whether at least 50% (based on cost) of the fund's total investments (excluding cash and other temporary investments) constitute "good" venture capital investments during the 90-day valuation period applicable to the fund. Information regarding the cost of each investment held by the fund on one day during the applicable 90-day period, and confirmation of the management rights required for any "good" investment, should be gathered in preparation for such certification or opinion. Usually the 90-day valuation period is established by the fund in connection with its initial investment. The timing of the certification is usually tied to the end of the 90-day period, often 60 days following the end of such period. Fund sponsors should conduct the VCOC or 25% test analysis as applicable and deliver the applicable certification to their limited partners.

If a "feeder fund" for investors with a particular tax profile was established to invest in a "master fund," it is possible that the feeder fund might be treated as holding plan assets of ERISA investors. In such case, it may be necessary to update any mandatory disclosure pursuant to Section 408(b)(2) of ERISA (if applicable) regarding direct and indirect compensation for services, if any, relating to the feeder fund. In the case of a new master fund that intends to operate as a VCOC but has not yet made its first investment, updated disclosure to comply with Section 408(b)(2) of ERISA (and possibly other reporting requirements applicable to ERISA investors) may be required, particularly if expenses or management fees were paid by any ERISA investors before the first investment has been made. The circumstances pertaining to each master and feeder fund differ, and counsel should be consulted regarding compliance with any applicable disclosure requirements.

TIC Reporting

Private fund sponsors that have portfolio investments in foreign issuers, have issued interests in their funds to foreign residents or have claims on or liabilities to foreign residents may be required to report these transactions on the Treasury International Capital (TIC) system. TIC Form SLT requires that U.S. resident entities report investments in foreign long-term securities (i.e., securities with a maturity of more than one year) and long-term securities issued by such U.S. resident entities to foreign persons equal to $1 billion or more. A private fund adviser is required to consolidate its reportable long-term securities across all funds to determine whether it meets or exceeds the reporting threshold. Form SLT must be filed monthly.

TIC Form B generally requires the reporting of information on certain claims and liabilities (including loans and short-term debt instruments) of non-U.S. entities with U.S. financial institutions. Filing obligations generally may result from private funds that invest directly in non-U.S. debt instruments, provide credit to non-U.S. entities, directly hold non-U.S. short-term securities, or maintain credit facilities with non-U.S. financial institutions. However, any claims or liabilities that are serviced by a U.S. entity, or any claims or liabilities for which a U.S. custodian or U.S. sub-custodian is used, do not need to be reported by the private fund adviser.

New BEA Reporting Requirements

The Bureau of Economic Analysis (BEA) recently revised its rules regarding two survey forms (Form BE-13, for reporting new direct investments by foreign entities into the United States, and Form BE-10, for reporting existing direct investments by U.S. entities abroad). As a result of these changes, a private fund sponsor that is subject to these reporting obligations is now required to file the form even if not directly requested to do so by the BEA.

Form BE-13 – A U.S. entity is generally required to make a BE-13 filing if a non-U.S. person acquires ownership of 10% or more of its voting securities and the cost of acquiring such securities is more than $3 million. The BE-13 requests information on, among other things, the nature of the transaction resulting in foreign ownership and ownership identities and percentages. The reports are confidential and used for statistical analysis. The BEA generally does not consider limited partner interests or non-managing member limited liability company interests to be voting securities, so most U.S. funds with foreign investors would not have to file. However, general partner/managing member interests generally are considered voting securities for purposes of the BE-13. Therefore, a fund domiciled in the U.S. that has a general partner domiciled outside the U.S. generally would be required to file. In addition, if a non-U.S. fund owns 10% or more of the voting securities of a U.S.-domiciled portfolio company, the portfolio company generally would have to file. Reports are required to be filed within 45 days of a reportable transaction. After an initial BE-13 filing is made, the BEA requires quarterly, annual, and five-year benchmark filings.

Form BE-10 – Form BE-10 is used to report U.S. direct investment abroad. Generally, a BE-10 filing must be made by any U.S. person (such as a U.S.-domiciled fund) that had direct or indirect ownership or control of 10% or more of the voting stock of a foreign entity at any time during the U.S. person's 2014 fiscal year. The BE-10 survey is conducted every five years, with the next report due on May 29, 2015 for those U.S. reporters with fewer than 50 qualifying foreign investments, and June 30, 2015 for those U.S. reporters with 50 or more qualifying foreign investments.

Broker-Dealer Considerations

On April 5, 2013, the SEC published comments of David Blass, Chief Counsel, Division of Trading and Markets, concerning the potential need for broker-dealer registration by private fund advisers in connection with (i) the sale of fund interests by a private fund adviser's internal personnel and (ii) the receipt of transaction-based fees in connection with portfolio company transactions. For more information on Mr. Blass's speech please see our April 2013 Private Equity Alert *SEC Official Provides Guidance on Broker-Dealer Registration by Private Fund Advisers*.[10] On September 26, 2013, Mr. Blass participated in a Practising Law Institute webinar on broker-dealer issues in the private fund industry where he provided an update on the SEC's views. For more information on Mr. Blass's September speech please see our October 2013 Private Equity Alert *David Blass Answers Questions with Respect to Broker-Dealer Registration of Private Fund Advisers*.[11] On January 31, 2014, the SEC's Division of Trading and Markets issued a no-action letter that permitted certain business brokers and finders who make introductions and participate in the structuring of sales of controlling stakes in private businesses to receive transaction-based compensation without having to register as broker-dealers.

We understand that the SEC continues to examine the application of broker-dealer rules to the activities of private fund sponsors and will keep you updated on any new developments in this important area.

European Union Regulation of the Private Equity Industry

The Directive on Alternative Investment Fund Managers (the AIFM Directive) has now been implemented into the national laws of all key European Economic Area (EEA) member states and the transitional rules that allowed some continued marketing terminated in July 2014. Managers bringing funds to the European market since that date now have to wrestle with the AIFM Directive and its varied implementation across Europe. The AIFM Directive subjects EEA private fund sponsors or private fund sponsors using EEA fund vehicles to potentially onerous operational and organizational requirements that go significantly beyond the rules applicable to SEC-registered advisers.

The AIFM Directive also impacts U.S. private fund managers that market fund interests to investors in the EEA by imposing a subset of the full AIFM Directive rules upon them. In particular, such managers become subject to certain ongoing compliance requirements including disclosure and reporting obligations, restrictions on extracting capital from EEA portfolio companies and other measures designed to improve transparency when acquiring EEA portfolio companies. For example, it is likely that a private equity fund sponsor will have to disclose all side letters to each investor in a fund. As such, the implementation of the AIFM Directive has now resulted in new and much more onerous private placement regimes across EEA jurisdictions. These require notifications, registrations and in most cases approvals from regulators prior to marketing to investors in the relevant jurisdiction. Some EEA jurisdictions have supplemented the AIFM Directive's minimum requirements for non-EEA private fund sponsors with additional obligations such as, in the case of Denmark and Germany, the appointment of a depositary to oversee the fund's investments and cash flows and, in the case of Austria and France, full AIFM Directive compliance equivalent to that required of EEA private fund managers. Private fund sponsors will have to carefully plan their marketing campaigns and apply for regulatory approvals in any relevant EEA jurisdictions well in advance of anticipated marketing efforts commencing since regulators in some EEA jurisdictions have been taking up to four months to approve marketing. In addition, fund managers will be required to carry out a short form compliance process to ensure they are ready to meet the European reporting requirements. We are currently assisting a significant number of U.S.-based and global private fund managers in making applications to European regulators for approval under the AIFM Directive's private placement regimes and have also assisted a number of such managers with their first reporting cycle in January this year.

It is intended that later this year it will become possible for U.S. private fund managers to apply for the full marketing passport that will allow them to select an EEA member state to regulate them and then freely market their funds to professional investors across the EEA. However, this would only be available if U.S. private fund managers were prepared to accept the heavy burden of full compliance with the AIFM Directive and a system of dual regulation that may not be attractive. As such, our expectation is that the extension of the full marketing passport to U.S. private fund managers will not dramatically change the market. It might, however, begin to have an impact if it brings forward the date at which some member states remove their private placement regimes. And it should be remembered that, if the full AIFM Directive schedule is implemented, those private placement regimes will ultimately all be removed in 2018. That date will have a dramatic impact on the market. From that point all private fund sponsors marketing in the EEA will be obliged to become subject to the same compliance regime which applies to EEA private fund sponsors. As private placement becomes harder and 2018 becomes closer, we expect increasing numbers of fund managers to make a binary decision: either to close down active European marketing efforts or to explore other compliance options. If establishing a European entity of their own is a step too far and the organization does not wish to subject its U.S. operations to the full scope of the AIFM Directive, fund managers may seek to work with a third party platform manager in order to outsource AIFM Directive compliance but continue to be able to market into the EEA. We are starting to see increased interest in this idea where private placement regimes aren't available (for example, France and Austria) or on very wide fundraisings where the complications of private placement across many jurisdictions is unattractive and/or where there are other reasons to be able to offer investors a fully AIFM Directive-compliant vehicle (for example, proposed changes to German domestic insurance rules may begin to require this).

Knowledgeable Employees

On February 6, 2014, the SEC released guidance expanding the categories of individuals who may be deemed "knowledgeable employees" under Rule 3c-5 of the Investment Company Act of 1940 (and who therefore may invest in private funds relying on Section 3(c)(1) or 3(c)(7) of the Act without counting towards the 100 investor limit or meeting the qualified purchaser standard, respectively) to include individuals (such as investor relations employees or policy-making employees who do not actively manage the fund itself) who meet certain conditions. For more information on this SEC guidance please see our February 2014 Private Equity Alert *SEC Guidance Expands Knowledgeable Employee Standard*.[12]

Volcker Rule Deadline for Legacy Funds

In December 2014, the Federal Reserve Board (FRB) extended the deadline under the Volcker Rule for banking entities to conform investments in, and relationships with, covered funds and foreign funds that were in place before December 31, 2013 from July 21, 2015 to July 21, 2016. The FRB also stated that in 2015 it intends to grant an additional extension of the compliance deadline to July 21, 2017. The extensions do not apply to (i) investments in, and relationships with, covered funds put in place after December 31, 2013 or (ii) proprietary trading activities.

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1. This Private Equity Alert does not address filings required to be made under the Securities Exchange Act of 1934 and tax-related filings. In addition, this Private Equity Alert is not intended to provide a complete list of an investment adviser's compliance obligations or to serve as legal advice and, accordingly, has not been tailored to the specific needs of a particular investment adviser's business.
2. In addition, an investment adviser must update its Form ADV promptly if certain information becomes inaccurate as indicated in the instructions to Form ADV.
3. Please note that certain large "hedge fund" advisers and "liquidity fund" advisers are subject to more frequent and extensive reporting requirements and shorter deadlines.
4. Available at http://www.weil.com/files/upload/Private_Equity_Alert_Sept_2012_.pdf

5. Available at http://www.weil.com/~/media/files/pdfs/may_12_2014_pe_alert.pdf
6. Available at http://www.weil.com/files/upload/PE_Alert_August_12_2013.pdf
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The Private Equity group's practice includes the formation of private equity funds and the execution of domestic and cross-border acquisition and investment transactions. Our fund formation practice includes the representation of private equity fund sponsors in organizing a wide variety of private equity funds, including buyout, venture capital, distressed debt, and real estate opportunity funds, and the representation of large institutional investors making investments in those funds. Our transaction execution practice includes the representation of private equity fund sponsors and their portfolio companies in a broad range of transactions, including leveraged buyouts, merger and acquisition transactions, strategic investments, recapitalizations, minority equity investments, distressed investments, venture capital investments, and restructurings.

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