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New DOL Independent Contractor Rules, New Diligence Pitfalls: What Fund Managers Need to Know

WRITTEN BY

Tracey E. Diamond | Grace M. Goodheart

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In recent years, independent contractor (IC) misclassification has continued to be a headline-grabbing issue, with notable businesses being subjected to significant judgments or paying out large sums to settle misclassification claims. Although the headlines typically focus on large, well-known companies, IC classification issues can affect companies of virtually any size. Therefore, it is important for PE firms to sufficiently evaluate IC misclassification risks when considering potential investments, as those risks can lead to material liability down the road. Recently, the U.S. Department of Labor published a highly anticipated final rule (Rule) that establishes a six-factor test for determining whether a worker is an employee or an IC for purposes of coverage under the Fair Labor Standards Act (FLSA). The Rule becomes effective on March 11, 2024.

In a guest article, Troutman Pepper attorneys Tracey E. Diamond and Grace M. Goodheart examine each factor in the Rule and detail steps PE firms can take to avoid IC misclassification issues under the FLSA.

Read full article (subscription required).

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