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The SEC's Private Fund Rules: What Advisers Need to Know

WRITTEN BY

[Genna Garver](#)

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By Amber Allen* and Genna Garver

On August 23, 2023, the U.S. Securities and Exchange Commission (SEC) adopted new rules (Adopting Release) for private fund advisers under the Investment Advisers Act of 1940, as amended (Advisers Act). Under the new rules, registered private fund advisers must: (1) provide quarterly statements to fund investors with details on performance, fees and expenses; (2) obtain an annual audit for private funds; and (3) comply with certain requirements for adviser-led secondaries, including obtaining a fairness opinion or valuation opinion. The rule heightens regulation for all private fund advisers, regardless of registration status, by establishing certain requirements. Under the final rules, private fund advisers are restricted from engaging in several activities that are viewed as contrary to public interest and protection of investors. These provisions apply to all private fund advisers, whether registered or exempt, with respect to private funds they advise (other than a securitized asset fund).

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* *Amber Allen is General Counsel and EVP of Fairview and President of Fairview Cyber. She can be reached at amber.allen@fairviewinvest.com.*

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