

PENbrief Financial Reform Bill May Increase Transaction Costs for Private Funds Using Derivatives

The Dodd-Frank Wall Street Reform and Consumer Protection Act, passed by the House on June 30 and currently under consideration by the Senate (the “Dodd-Frank Act”), imposes significant new requirements on private funds that use derivatives. Although the Dodd-Frank Act provides exemptions for certain operating companies that use swaps to hedge commercial risk, most “financial entities,” such as private funds, will be required to trade “standardized” swaps (e.g., interest rate swaps, equity swaps and currency swaps, unless currency swaps are later exempted by the U.S. Treasury) on an exchange and submit them to a clearing entity. This requirement may result in increased margin requirements and transaction costs for private

funds that use derivatives, whether for hedging or investment purposes. In many cases, entities with derivatives activity deemed substantial by the Commodity Futures Trading Commission (“CFTC”) would be required to register with the CFTC and meet capital, margin and business conduct standards.

To learn more about the changes imposed by the Dodd-Frank Act, please see our recent *Kirkland Alert*, “[Dodd-Frank on Derivatives: The New World of Swap Regulation](#),” authored by Kirkland partners Mark D. Young and Maureen A. Donley, and associate Rachel Kaplan Reicher, or speak to your regular Kirkland attorney.

This publication is distributed with the understanding that the author, publisher and distributor of this publication and/or any linked publication are not rendering legal, accounting, or other professional advice or opinions on specific facts or matters and, accordingly, assume no liability whatsoever in connection with its use. Pursuant to applicable rules of professional conduct, portions of this publication may constitute Attorney Advertising.

*Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
+1 (312) 862-2000*