

SEC Settles with Private Equity Manager over Expense and Conflict Issues

The Securities and Exchange Commission (SEC) recently entered into a settlement with a private fund manager related to lack of disclosure and conflicts regarding expense allocations. This settlement reflects the SEC's continued focus on private fund manager expense practices, including through enforcement actions.

According to the order¹:

- The manager entered into an arrangement with an industry focused management team, which was structured as a portfolio fund owned by the private equity fund, together with a management company employing the management team also owned by the fund. According to the SEC, this allowed the manager to effectively charge the fund additional advisory fees.
- At various times, the manager allocated certain premiums for a liability insurance policy covering the manager for risks not entirely arising from its management of its funds, when the funds' limited partnership agreements provided a fund should only pay for fund-related insurance premiums.
- The manager negotiated a legal fee discount from a law firm for itself for certain services based on the large volume of work the law firm performed for the funds, while the funds did not receive a discount on the same services. Because of the conflict of interest the manager faced as the beneficiary of the discount, the manager could not consent on behalf of the funds to the practice of accepting the discount.

Pursuant to the order, the manager agreed to pay a \$3.5 million civil penalty. The SEC considered the manager's cooperation and prompt remedial efforts, including voluntary fund reimbursements of over \$8 million, in accepting the settlement.

¹ See [Administrative Summary](#) and [Settlement Order](#), September 14, 2016.

If you have any questions about the matters addressed in this *Kirkland AIM*, please contact the following Kirkland attorneys or your regular Kirkland contact.

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Tier 1 Investment Fund
Formation and Management:
Private Equity Funds

The Legal 500 US, 2016

SEC ENFORCEMENT

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