

Recent Cyber-Attacks Against PE Firms and Portfolio Companies

PENpoints

Two recent developments are a reminder that sponsors and their portfolio companies should remain vigilant about protecting and monitoring their networks and sensitive information.

Recent digital attacks against private equity firms and their investors have come in a wide variety of forms, including ransomware incidents, copycat websites in perpetration of a fraud, fake data room emails (which use names of real PE firms and their professionals), and thefts of treasurer credentials, restricted lists, LP information (particularly for natural persons) and deal sourcing databases.

Two recent developments in cyber-attacks against PE firms and their investors are worth noting:

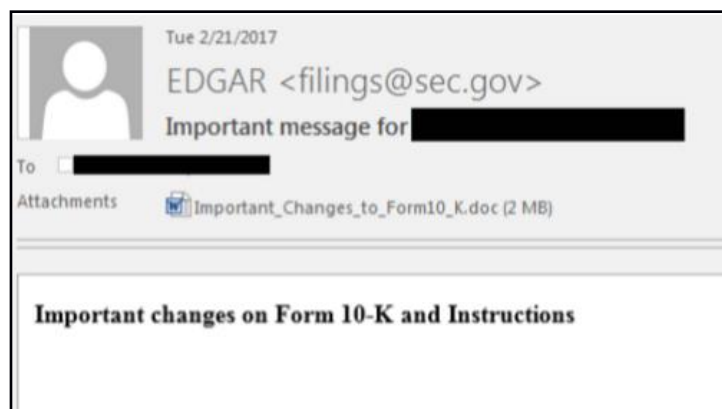
1. Drawdown Scam. Kirkland has recently been made aware of cyber-criminals targeting PE sponsors and their drawdown practices. In these attacks, the prevalence of which is unclear, cyber-criminals have hacked into sponsor systems and obtained drawdown notices and LP information. The criminals then issued fake drawdown requests (with changed bank account details) in an attempt to steal funds from LPs. The drawdown requests have apparently been exceedingly convincing, using the right identification details and format.

Many sponsors use very strong processes regarding drawdowns, particularly with respect to authentication protocols. These sponsors may not be susceptible to this current form of attack. Nevertheless, the incidents are a good reminder that sponsors — and perhaps more importantly, their relationship with their LPs — are not immune from being targeted by determined criminals.

2. Fake SEC Emails. The SEC just identified a new spear-phishing attack connected to SEC filings. The attack uses an email purporting to be from “sec.gov,” which is sent to lawyers (internal and external), compliance managers and others involved with SEC filings. The email includes an attachment claiming to show “Important changes on Form 10K.” When opened, the attachment releases malware allowing the attacker access to the company’s internal network.

Here is a link to an SEC notice: <https://www.sec.gov/oit/announcement/notice-regarding-phishing-scam-targeting-edgar-filers.html>

Here is a screen-shot of the email published by *Fortune* magazine:



While cyber-attacks remain largely shrouded in secrecy, creating an environment for unsubstantiated reports and fear-mongering, these developments are nevertheless a reminder that sponsors and their portfolio companies should remain appropriately vigilant about protecting and monitoring their networks and sensitive information.

These two recent examples also demonstrate there is no “one-size-fits-all” approach to solving cyber-risk. For the foreseeable future, firms will have to continue to develop and maintain appropriate protections, sustain readiness should an attack occur, and prepare to mitigate and remediate the impacts of successful attacks.

As reiterated in its 2017 Examination Priorities, the SEC continues its initiative to examine the cybersecurity policies and procedures of advisers (see our [KirklandAIM](#) dated January 19, 2017, for more information). PE sponsors should familiarize themselves with the statutory and other cybersecurity obligations applicable to them (e.g., Regulation S-P, data protection, fraud, business continuity) and implement policies and procedures designed to prevent, detect and respond to identified cybersecurity threats and manage their cybersecurity obligations. This includes training supervised persons on how to monitor compliance with applicable policies and procedures as well as how to detect and respond to cybersecurity threats (such as those discussed above), regular testing and periodic assessments of the firm and its vendors and remaining vigilant as cybersecurity threats are rapidly changing.

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

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PENnotes

“Going Public: My Adventures Inside the SEC and How to Prevent the Next Devastating Crisis” Book Launch

New York, NY, March 15, 2017

Washington, D.C., March 30, 2017

Please join us for Kirkland partner Norm Champ’s book release, “Going Public: My Adventures Inside the SEC and How to Prevent the Next Devastating Crisis.” The book chronicles his experiences as former Director of Investment Management at the SEC and sheds light on the regulatory process and government policymaking. Click [here](#) for more information.

Harvard Business School Club of New York “The Global Outlook for Private Equity Investing”

New York, NY, March 27, 2017

In partnership with Harvard Business School Club of New York, Kirkland will host this event, featuring Blackstone senior adviser and Harvard Business School professor John Dionne. The program will address the worldwide economy, emerging political and social trends, and the resulting effect on the global outlook for private equity investing. Click [here](#) for more information.

National Young Energy Professionals’ Law Conference

New Orleans, LA, March 31-April 1, 2017

Designed primarily for energy attorneys under 40 years of age, this conference will provide young energy professionals with opportunities to network with their peers, provide significant hours of energy-related CLE and offer professional development training. Kirkland is a sponsor of the event. Click [here](#) for more information.

Kellogg Spark 2017: The Premier Student-run Private Equity and Venture Capital Conference

Evanston, IL, April 12, 2017

Kirkland is a platinum sponsor of Kellogg Spark 2017, which will offer an opportunity for professionals, academics, students and alumni to explore the challenging issues surrounding private equity and venture capital, as well as to network with other industry professionals. This year’s event will feature Monique Woodard of 500 Startups and Liam Stewart of Macquarie Infrastructure Corporation as keynote speakers, in addition to a variety of panels and fireside chats. Click [here](#) for more information.

**Institute for Energy Law Mergers, Acquisitions & Divestitures Conference
Houston, TX, May 18-19, 2017**

Kirkland is a sponsor of the Center for American and International Law - Institute for Energy Law's annual Mergers, Acquisitions & Divestitures Conference. Kirkland partner Cody Carper will be a panelist on "Lessons Learned from Big Deals," which will explore lessons from the last 12 months of major deal making, from antitrust and regulatory hold-ups to major deal collapses and large deals that made it through. Click [here](#) for more information.

**SuperReturn U.S. 2017
Boston, MA, June 12-15, 2017**

SuperReturn U.S. 2017 will explore the trends and drivers of private equity and venture capital in North America, and provide networking opportunities within the global private equity community. Kirkland partner Norm Champ will be a panelist at the event. Click [here](#) for more information.

Private Equity Practice at Kirkland & Ellis

Beijing
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Kirkland & Ellis' nearly 500 private equity attorneys handle leveraged buyouts, growth equity transactions, recapitalizations, going-private transactions and fund formations on behalf of more than 400 private equity firms and hedge funds around the world.

Kirkland has been widely recognized for its preeminent private equity practice. The Firm was named "Private Equity Group of the Year" in each of the last six years by *Law360* and was commended as being the most active private equity law firm of the last decade in *The PitchBook Decade Report*. U.S. News Media Group and Best Lawyers have ranked Kirkland as a Tier 1 law firm for Leveraged Buyouts and Private Equity Law for seven consecutive years and as a top-tier firm for Private Funds/Hedge Funds Law since 2012. The Firm was recognized as the #1 law firm for private equity in the 2017 Vault 100 rankings, and, in 2016, Private Equity International named the Firm "Law Firm of the Year in North America: Fund Formation" for the third year in a row.

In 2012-2016, Chambers and Partners ranked Kirkland as a Tier 1 law firm for Investment Funds in the United States, United Kingdom, Asia-Pacific and globally. The Firm was ranked as the #1 law firm for both Global and U.S. Buyouts by deal volume in Mergermarket's *League Tables of Legal Advisors to Global M&A for Full Year 2011-2016*, and has consistently received top rankings among law firms in Private Equity by The Legal 500, the Practical Law Company and IFLR, among others.

The Lawyer magazine has recognized Kirkland as one of its "Transatlantic Elite," having noted that the Firm is "leading the transatlantic market for the provision of top-end transactional services ... on the basis of a stellar client base, regular roles on top deals, market-leading finances and the cream of the legal market talent."

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