

Private Fund Update

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ACG holds its [Third Annual Middle Market Public Policy Summit](#) this Wednesday, February 5th in Washington, DC. Confirmed speakers include Senator Orrin Hatch (R-UT), Congressman John Delaney (D-MD) and Congressman Jared Polis (D-CO), as well as officials from the SEC. The event is open to all ACG members, and is free of charge. For more information click [here](#).

Most of the action last week was at the SEC, which charged a private equity fund manager with fraud, issued a risk alert on the selection of alternative investments; held a meeting of its Investor Advisory Committee, and held its annual Investment Adviser compliance seminar.

This update includes:

- Wednesday's House Financial Services Committee hearing on how the Volcker Rule limits job creation;
- The SEC's complaint against a private equity fund manager for fraud; and
- The SEC's risk alert on investment advisers' due diligence process for selecting alternative investments.

The 113th Congress

House of Representatives

House Financial Services Committee

[Hearing on Volcker Rule](#) – On Wednesday, the HFSC holds a [hearing on the Volcker Rule](#) that will review the difficult line between “proprietary trading” (which is prohibited) and market-making (which is permitted), and examine whether the rule is harmful to the U.S. economy, its capital markets, and our domestic job-creating businesses. It will also examine the impact of the Volcker Rule on the ability of financial institutions to own tranches of CDOs backed by trust preferred securities. The Committee Memorandum is [here](#). Witnesses at the hearing are:

- The Honorable Daniel Tarullo, Governor, Federal Reserve Board
- The Honorable Mary Jo White, Chairman, SEC
- The Honorable Thomas Curry, Comptroller of the Currency
- The Honorable Martin Gruenberg, Chairman, FDIC
- The Honorable Mark Wetjen, Acting Chairman, CFTC

[Hearing on the Office of Financial Research](#) – On Wednesday, the Committee also holds a hearing with Dr. Richard Brener, Director of the Office of Financial Research. As with the Senate hearing last week, the hearing is likely to focus on the OFR's [controversial report on the asset management](#)

[industry](#). The Committee Memorandum is [here](#).

The Committee also holds a hearing on [modernizing insurance regulation](#).

House Small Business Committee

[Hearing on Duplication in Federal Financial Assistance Programs](#) – On Thursday, the committee holds a hearing on [duplication, overlap and fragmentation](#) in federal financial assistance programs.

Witnesses are:

- William B. Shear, Director, Government Accountability Office
- Ann Marie Mehlum, Associate Administrator, Office of Capital Access, SBA
- Lillian Salerno, Administrator, Department of Agriculture

The Senate

Senate Banking Committee

This week the committee holds two hearings, one on [financial stability and data security](#), and another on [safeguarding consumers' financial data](#).

Securities and Exchange Commission

SEC Charges Private Equity Fund Manager with Fraud

The SEC [charged a private equity fund manager](#) with fraudulently stealing \$9 million from investors in the fund. According to [the SEC's complaint](#), Lawrence E. Penn III of Camelot Acquisitions Secondary Opportunities Management and an accomplice concocted sham due diligence transactions where Penn used fund assets to pay fake fees to a front company controlled by the accomplice, who then promptly kicked the money back to companies and accounts controlled by Penn.

"SEC in 2014" Speech by Mary Jo White

SEC Chairwoman Mary Jo White gave a speech last week where she discussed the SEC's 2014 agenda and some of the major initiatives at the agency, including the National Exam Analytics Tool (NEAT), which allows examiners to access and systematically analyze massive amounts of trading data from firms to search for evidence of insider trading and the Market Information Data Analytics System (MIDAS), which collects one billion records of trading data, time-stamped to the microsecond. The SEC is now aggregating this data and presenting it on its website along with a wide range of analyses.

Risk Alert on Selection of Alternative Investment Advisers

The SEC [issued a Risk Alert](#) summarizing OCIE staff observations on the due diligence practices of certain investment advisers that manage and/or recommend alternative investments to their clients. The SEC recommends (i) the use of separate accounts to gain full transparency and control; (ii) the use of transparency reports issued by independent fund administrators and risk aggregators; (iii) the verification of relationships with critical service providers; (iv) the confirmation of existence of assets; (v) routinely conducting onsite reviews; (vi) the increased emphasis on operational due diligence; and (vii) having independent providers conduct comprehensive background checks.

Investment Adviser Compliance Seminar Held

Last week the SEC [held its national compliance seminar](#) for investment advisers and investment companies. The event is intended to help these firms' Chief Compliance Officers (CCOs) and other senior personnel to enhance their compliance programs for the protection of investors. The seminar agenda is [here](#).

Commodity Futures Trading Commission (CFTC)

Meeting of Global Markets Advisory Committee re: Cross-Border Swaps

The CFTC's Global Markets Advisory Committee [will meet](#) on Wednesday, February 12. The Committee will discuss the CFTC [staff advisory](#) issued on November 14, 2013, related to the CFTC's cross-border guidance. Specifically, the meeting will discuss whether a non-U.S. swap dealer (SD) must comply with Dodd-Frank's Transaction-Level Requirements when entering into a swap with a non-U.S. person if the swap is arranged, negotiated, or executed by agents of the non-U.S. SD located in the United States.

Meeting of Technology Advisory Committee on February 10

The CFTC's Technology Advisory Committee will be holding a public meeting on Monday, February 10. Topics will include the Commission's [concept release on automated trading environments](#), swap execution facilities and swap data reporting.

Weekly Swaps Report

Here is a link to the CFTC's [Weekly Swaps Report](#) for the week ending January 17, 2013. The weekly report provides a detailed view of the swaps marketplace, covering the interest rate and credit asset classes that comprise about 90% of the approximately \$400 trillion swaps market. The report includes: the gross notional outstanding value, the weekly transactions measured by dollar volume, and the weekly transactions measured by ticket volume.

The Administration

The President gave his [State of the Union](#) speech last week and, as expected, it included a list of policy initiatives he hopes to accomplish through executive action. The full policy proposals are still being rolled out, but thus far none of them directly impact private equity.

Association for Corporate Growth (ACG)

Middle Market Public Policy Summit Next Week

On Wednesday, February 5th, the Association for Corporate Growth (ACG) will hold its [2014 Middle-Market Public Policy Summit](#) in Washington, DC. This event is open to all ACG members. To register for the Summit click [here](#).

InterGrowth 2014

Registration has opened for [InterGrowth 2014](#), which will be held April 28 – May 1, 2014, at the Aria Hotel in Las Vegas. To register online for InterGrowth click [here](#).

Small Business Investor Alliance (SBIA)

SBIC Regulations Class on February 6

The SBA/SBIC will be holding an [SBIC registration class](#) on Thursday, February 6th, at the Hilton Garden Inn in Washington, DC. The purpose of this class is to familiarize SBIC principals with the SBIC rules, regulations, and compliance procedures. Classes are limited in size and a licensed SBIC may not drawdown leverage until all principals have completed the training.

The next class [will take place on June 12, 2014](#).

Miscellaneous

Economic Cost of Government Shutdown

The U.S Department of Commerce [released a Technical Note](#) on Fourth Quarter 2013 Gross Domestic Product which shows that the sixteen-day federal government shutdown last October reduced real GDP growth by about 0.3 percentage point in the fourth quarter. This is significantly less than many economists had predicted.

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