

# 2025 First Quarter Newsletter

Rule Proposals, Risk Alerts, & More for Investment Advisers

During the first quarter we grew our team with four fantastic new colleagues who bring fresh energy and expertise to our work with our clients. We also expanded our private client event series by hosting a roundtable in Los Angeles. Finally, we participated in an industry conference in London, where we had the opportunity to speak on key issues shaping the regulatory landscape.

On the regulatory front, the SEC has experienced significant personnel changes. Leadership changes and attrition at the staff level tied to the administration change have created a bit of a reset, with enforcement activity slowing down for now. At the same time, the SEC issued two significant FAQ updates to the Marketing Rule, extended several key compliance deadlines, and released new guidance that expands fundraising opportunities under Rule 506(c) of Regulation D. Most notably, the Commission signaled a shift away from its prior “regulation by enforcement” approach, laying the groundwork for more defined and transparent oversight of crypto and digital assets.

Looking ahead, we’re keeping a close eye on how the SEC’s focus may shift under the new administration now that Paul Atkins has officially been sworn in as the SEC’s new Chairman.

Below is a comprehensive listing of the most significant news and enforcement actions impacting private fund managers.

## First Quarter Headlines

### SEC Updates Form PF FAQ<sup>1</sup>

On April 4, the SEC [updated](#) its Form PF FAQs. The updated FAQs ranged from how to properly categorize a private equity fund whose fund documents allow the fund to either employ large amounts of leverage or sell assets short, clarified that private funds should still be reported even

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<sup>1</sup> While this came out in the second quarter, we thought it important to highlight as part of this quarter’s update.

if they were liquidated during the reporting period, and answered many other Form PF specific FAQs.

## **SEC Updates Marketing Rule FAQ**

On March 19, the SEC **updated** its Marketing Rule FAQ providing guidance relating to how private fund advisers present extracted gross performance and certain gross portfolio or investment characteristics.

An adviser may now present gross extracted performance if:

- i. the extracted performance is clearly identified as gross performance;
- ii. the extracted performance is accompanied by a presentation of the total portfolio's gross and net performance consistent with the requirements of the rule;
- iii. the gross and net performance of the total portfolio is presented with at least equal prominence to the extracted performance; and
- iv. the gross and net performance of the total portfolio is calculated over a period that includes the entire period over which the extracted performance is calculated.

However, it's important to note that the FAQs do not explicitly address how to treat projected performance under this relief. The Marketing Rule defines hypothetical performance to include projected performance. Presentations that include hypothetical performance are subject to specific requirements. That said, law firms have been expressing varying views on whether projected performance falls within the scope of the FAQ relating to extracted performance. Advisers should exercise caution when considering whether to include projected performance on a gross only basis in advertisements.

In addition, an adviser may now present certain gross portfolio or investment characteristics if:

- i. the gross characteristic is clearly identified as being calculated without the deduction of fees and expenses;
- ii. the characteristic is accompanied by a presentation of the total portfolio's gross and net performance consistent with the requirements of the rule;
- iii. the total portfolio's gross and net performance is presented with at least equal prominence to, and in a manner designed to facilitate comparison with, the gross characteristic; and
- v. the gross and net performance of the total portfolio is calculated over a period that includes the entire period over which the characteristic is calculated.

## **SEC Issues No-Action Letter Regarding the Verification of Accredited Investor Status under Rule 506(c)**

On March 12, the SEC **issued** a No-Action Letter providing guidance and some clarity regarding the steps an adviser must take to verify whether an investor is accredited in an offering conducted under Rule 506(c) of Regulation D. The letter outlined how an adviser can comply with Rule 506(c) for verifying investor eligibility if the adviser requires investors to agree to certain minimum

investment amounts (the incoming letter used a \$200,000 minimum for a natural person as an example) when coupled with an investor's written representations and certain related conditions.

## **SEC Provides Temporary Exemption from Form SHO Filing**

On February 7, the SEC [announced](#) it was providing an exemption from compliance with Rule 13f-2 under the Securities Exchange Act and from reporting on Form SHO. Filings on initial Form SHO from institutional investment managers that meet or exceed certain specified thresholds will be due by February 17, 2026, for the January 2026 reporting period. Form SHO is required to be filed within 14 calendar days after each calendar month if managers exceed certain thresholds in short-sale positions.

## **SEC Announces the Extension of Form PF Amendments Compliance Date**

On January 29, the SEC, in conjunction with the CFTC, [announced](#) that it extended the compliance date for the amendments to Form PF that were adopted on February 8, 2024. The compliance date has been extended to June 12, 2025, three months after the original compliance date of March 12, 2025. Amendments that will impact advisers include disaggregating the reporting of parallel fund structures, the requirement to report contributions and withdrawals/redemptions in the reporting period, and the need to provide additional information related to a fund's performance.

## Did You Know?

In the SEC's first quarter of the fiscal year 2025, the SEC filed 200 total enforcement actions, a record number of enforcement actions filed in Q1 since at least 2000. Additionally, the SEC filed more than 40 enforcement actions from January 1, 2025, through January 17, 2025 (the beginning of the second quarter of the fiscal year). This coincided with the end of the Gensler administration and the transition to the new administration under President Donald Trump that started on January 20, 2025.

– [Press Release](#) from January 17, 2025

## Q1 Key Enforcement Actions and News

We left off on December 31 in our 2024 [Year in Review Newsletter](#). Please note all sources are hyperlinked rather than footnoted.

### **SEC Charges Private Fund Adviser with Breaching Fiduciary Duty**

On March 7, the SEC [charged](#) a private fund adviser and one of its partners after alleging that its COO misappropriated over \$200,000 from portfolio companies using portfolio company debit cards to pay for personal purchases including clothing and vacations. In doing so, the SEC accused the adviser of failing to reasonably supervise the COO. Additionally, the adviser allegedly caused the fund to pay business debt at a portfolio company it acquired that should have been paid pro rata by the adviser's principals who had an ownership stake in the portfolio company prior to the

fund acquiring it. Finally, the adviser allegedly failed to comply with the custody rule by failing to obtain and timely distribute annual audited financial statements.

### **SEC Announces Formation of New Crypto Task Force**

On January 21, the SEC [announced](#) the formation of its new crypto task dedicated to developing a comprehensive and clear regulatory framework for crypto assets. The press release announced that Commissioner Hester Peirce will lead the task force.

### **SEC Charges Individual with Auditor Independence Violations**

On January 17, the SEC [announced](#) charges against an individual with failing to comply with the SEC's auditor independence rules. The SEC stated that the individual violated the Custody Rule under the Advisers Act when he allegedly audited private fund financial statements that he previously prepared.

### **SEC Charges Adviser with Compliance Failures Relating to Trading Models**

On January 16, the SEC [announced](#) a settlement with a hedge fund adviser for allegedly failing to address known vulnerabilities in their investment models and violating whistleblower protection rules. Despite identifying issues as early as March 2019, the SEC alleged that the hedge fund adviser delayed corrective actions until August 2023, during which time an employee made unauthorized changes to over a dozen models, impacting client investments. The firm voluntarily repaid \$165 million to affected clients and agreed to pay \$90 million in civil penalties. Additionally, the SEC found that the adviser's separation agreements improperly required departing employees to affirm they had not reported concerns to regulators, potentially deterring a whistleblower from speaking with regulators.

### **SEC Charges Adviser with Failing to Manage Conflicts of Interest in a Manner Consistent with its Firm Brochures**

On January 14, the SEC [announced](#) a settlement stating that the firm improperly managed conflicts of interest by requiring clients investing in affiliated private funds to sign disclaimers stating the firm was not acting as their adviser—contradicting its own disclosures and potentially misleading clients into waiving a non-waivable cause of action. Without admitting or denying the findings, the firm agreed to a \$100,000 civil penalty and a censure.

### **SEC Charges Adviser with Failing to Act in a Manner Consistent with Representations Made to Investors in Private Funds Regarding its Anti-Money Laundering Practices**

On January 14, charges were [announced](#) against an adviser the SEC alleged made misrepresentations related to its anti-money laundering (AML) procedures and for compliance failures. The adviser agreed to settle the SEC's charges and pay a \$150,000 civil penalty.

### **SEC Charges Individuals with Unregistered Broker Dealer Activity for Private Fund**

On January 14, three individuals were [charged](#) with allegedly soliciting, either directly or through other unregistered agents they compensated, investors for private funds that were selling membership interests. The individuals were not registered broker dealers and received transaction-based compensation for brokering such transactions.

## SEC Charges 12 Firms with Recordkeeping Failures

On January 13, the SEC [issued](#) a press release announcing settlements with 12 firms after alleging they failed to comply with recordkeeping requirements related to maintaining and preserving electronic communications. After many months of rumors, the firms picked up in the settlements were some of the largest and most well-known RIAs. These were the last settlements related to the use of off-channel communications announced under the Gensler administration after multiple years of heavy scrutiny in this area.

## SEC Charges Private Fund Adviser with Improper Fees and Expense Charges

On January 10, two advisers and their sole owner were [charged](#) with breaching its fiduciary duty regarding expenses charged to two private funds and failing to disclose related conflicts of interest whereby they were incentivized to charge the funds for expenses rather than pay the expenses themselves. The improperly charged expenses allegedly included outsourced financial services, public relations services, and the manager's legal fees. Additionally, the order also asserted that one of the advisers submitted invoices to the funds for unsupported and unspecified expenses without taking reasonable steps to confirm that the funds should have paid such expenses.

## SEC Charges Adviser with Failing to Deregister After Falling Below RAUM Threshold

On January 10, the SEC [charged](#) an adviser after it allegedly failed to file a Form ADV-W to withdraw its SEC registration subsequent to dropping below \$90 million in RAUM. The order settlement also accuses the adviser of failing to respond and produce documents requested by the Division of Examinations staff.

## Q2 Key Reporting & Disclosure Deadlines

**05/30/25** Quarterly Form PF for Large Hedge Fund Advisers Due; Quarterly Form PF Event Reporting

**06/29/25** Delivery of Audited Financial Statements (private fund of funds)

## Key Rulemaking Tracker

HighCamp maintains a Key Rulemaking Tracker with effective dates and pending rule proposals on its [website](#).

## Interested in UK Regulatory Updates?

In addition to our coverage of SEC developments, we're proud to partner with Judd Advisory, a UK-based compliance consultancy. Click [here](#) to read Judd's FCA regulatory updates, UK market developments and to stay informed on key issues affecting UK-regulated firms.

## About HighCamp Compliance



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