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REPORT

SEC AMENDS FORM PF TO EXPAND HEDGE FUND AND PRIVATE EQUITY FUND DISCLOSURE

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The US Securities and Exchange Commission (SEC) on May 3, 2023 voted 3-2 to adopt amendments to Form PF that will impact the required reporting for certain SEC-registered investment advisers in the private fund industry (the Form PF Amendments) and, in particular, will require current reporting of certain triggering events by large hedge fund advisers and all private equity fund advisers.

The SEC approved the Form PF Amendments despite dissents issued by Commissioners Hester Peirce and Mark Uyeda. Commissioner Peirce indicated that she did not share the SEC's belief in the "benevolent power of more," while Commissioner Uyeda expressed concerns about the additional costs for advisers that would likely be borne by investors. Chairman Gary Gensler, however, stated that he views the Form PF Amendments as enhancing visibility into the private fund industry, which has evolved significantly since the time Form PF was first adopted.

OVERVIEW OF FORM PF AMENDMENTS

The different Form PF Amendments and their required time frames for reporting apply to (1) large hedge fund advisers, (2) private equity fund advisers, and (3) large private equity fund advisers.

The Form PF Amendments require (1) current reporting as soon as practicable and, in any event, within 72 hours for large hedge fund advisers of certain triggering events with respect to their qualifying hedge funds; (2) event reporting for all private equity fund advisers on a quarterly basis of certain fund- and adviser-level triggering events; and (3) certain increased and additional reporting for all large private equity fund advisers, including reporting of any clawback events.

The Form PF Amendments will become effective six months after publication of the adopting release in the *Federal Register* for current and quarterly event reporting and one year after publication in the *Federal Register* for the remainder of the amendments.

The Form PF Amendments largely adopt the substance of the SEC proposal issued on January 26, 2022 related to current reporting (the Proposal). Certain material changes from the Proposal include (1) adopting a longer time frame for current reporting of "as soon as practicable" and no later than 72 hours after occurrence for large hedge fund advisers, and quarterly reporting for private equity fund advisers (as compared to the Proposal's

one-business-day time frame); (2) not requiring the reporting of unencumbered cash as originally proposed; and (3) incorporating the proposed reporting of clawback events into a large private equity fund adviser's annual filing (as compared to the Proposal's current reporting for all private equity fund advisers).

In a change from the Proposal, the Form PF Amendments do not adopt the lower \$1.5 billion reporting threshold for large private equity fund advisers; the existing threshold of \$2 billion in private equity fund assets under management remains in place in order to be considered a large private equity fund adviser. The SEC also did not adopt multiple reporting items, particularly for large private equity fund advisers, that were originally included in the Proposal.

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