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Regulatory Update and Recent SEC Actions

COVID-19 RELATED REGULATORY UPDATES

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SEC Provides Temporary, Conditional Relief for BDCs Making Investments in Small and Medium-Sized Businesses

On April 8, 2020, the Securities and Exchange Commission ("SEC") announced that it is providing temporary and conditional exemptive relief for business development companies ("BDCs") to enable them to make additional investments in small and medium-sized businesses. The relief will provide additional flexibility for BDCs to issue and sell senior securities in order to provide capital to these companies, and to participate in investments with these companies alongside certain private funds that are affiliated with the BDC. These changes are subject to investor protection conditions that include requirements for obtaining an independent evaluation of the issuances' terms and approval by a majority of a BDC's independent board members. This relief is a part of a larger initiative of the SEC to assist the financial market in light of the COVID-19 pandemic.

"Many small and medium-sized businesses across the country are struggling due to the effect of COVID-19, and today's temporary, targeted action will enable BDCs to provide their businesses with additional financial support during these times," said Chairman Jay Clayton. "The method for calculating the level of permitted financing and the other important conditions included in the order are designed to ensure that this temporary relief will both protect and benefit investors in the BDCs."

SEC Provides for Phased CAT Broker-Dealer Reporting Timelines with Conditional Exemption for Impacts of COVID-19

On April 20, 2020, the SEC issued two exemptive orders to advance Consolidated Audit Trail ("CAT") implementation. The first order establishes a phased CAT reporting timeline for broker-dealers. In addressing the COVID-19 pandemic, this order will allow for a delayed start to CAT reporting conditioned upon compliance with certain obligations, including milestones related to testing and releases of CAT functionality, and other compliance dates for broker-dealer reporting to the CAT. The second order focuses on "introducing brokers" that meet the net capital requirements for small broker-dealers, but fail to qualify as small broker-dealers for the purposes of the CAT National Market System Plan. This order provides exemptive relief permitting these firms to follow the CAT reporting timeline applicable to small broker-dealers.

SEC Forms Cross-Divisional COVID-19 Market Monitoring Group

On April 24, 2020, the SEC formed an internal, cross-divisional COVID-19 Market Monitoring Group. This group will assist the SEC in various actions and analyses related to the effects of COVID-19 on markets, issuers, and investors, as well as respond to requests for information from other regulators and public sector partners. The group will also coordinate with the COVID-19-related efforts of other federal financial agencies and other bodies, which include President Trump's Working Group on Financial Markets ("PWG"), the Financial Stability Oversight Council ("FSOC"), and the Financial Stability Board ("FSB"). The SEC later released a statement on May 13, 2020, which explained the work done to date by the SEC's COVID-19 Market Monitoring Group. According to the statement, the COVID-19 Market Monitoring Group held daily and weekly meetings with U.S. regulators on market oversight, the capital markets, cybersecurity, and other operational risks. The group also worked with European and Asian financial regulators and provided input on initiatives being pursued by the FSB and the International Organization of Securities Commissions. As the COVID-19 pandemic continues to impact the markets, the group will continue to examine the possible pro-cyclical effects of "required portfolio rebalancings, asset sales, and/or capital charges triggered by ratings downgrades," due to market volatility caused by the pandemic.

"At the SEC, our monitoring of, and responses to, the effects of COVID-19 on our capital markets often must take into account complexities, interconnections and continually evolving dynamics of our markets. This work benefits from the input of multiple SEC divisions and offices," said Chairman Jay Clayton. "For the past several months, the women and men of the SEC have worked across divisions and offices to assess and respond to the effects of COVID-19 on our capital markets and our investors. The COVID-19 Market Monitoring Group will help us continue and expand upon this interdisciplinary work. This group will also aid our efforts to assist and support the work of the PWG, FSOC, FSB and our other domestic and global regulatory partners."

SEC Enforcement Forms Coronavirus Steering Committee to Address COVID-19 Concerns and Response

In remarks made at the Securities Enforcement Forum West 2020 on May 12, 2020, SEC Co-Director of Enforcement Steven Peikin stated that the SEC has formed a Coronavirus Steering Committee to address COVID-19-related enforcement issues. Peikin noted that, as a result of the market's volatility, there are increased opportunities for insider trading and market manipulation. The purpose of the committee is to identify areas of potential misconduct and to monitor trade activity around announcements made by issuers in industries heavily affected by the pandemic. Peikin also stated that the committee will evaluate how COVID-19 has affected regulated entities and individuals with respect to redemption fund requests and potentially improper marketing/sales of products to retail investors. In conclusion, Peikin reported that the SEC has already ordered a significant amount of trading suspensions related to questions regarding the accuracy of coronavirus-related information, and that the SEC will continue its enforcement efforts during the pandemic.

SEC Extends Relief for Virtual Meetings of Fund Boards

On June 19, 2020, the SEC announced that it is extending conditional relief from the in-person voting requirements for fund boards that it originally provided in March 2020. The relief will now extend at least through December 31, 2020. In light of the COVID-19 pandemic, this extension will provide flexibility to boards of registered funds and BDCs that continue to face challenges meeting in person. The SEC initially provided in-person board meeting relief as part of broader exemptive orders providing temporary relief from

several requirements of the Investment Company Act and Investment Advisers Act. The SEC and its staff continue to assess the effects of COVID-19 on investors and market participants.

OTHER REGULATORY UPDATES

SEC Publishes Risk Alerts Providing Guidance Regarding Regulation Best Interest and Form CRS

On April 7, 2020, the SEC's Office of Compliance Inspections and Examinations ("OCIE") issued two risk alerts: *Examinations that Focus on Compliance with Regulation Best Interest* ("Reg BI") and *Examinations that Focus on Compliance with Form CRS*. Reg BI and Form CRS are important components of a broader package of rules to improve the quality and transparency of retail investors' relationships with broker-dealers and investment advisers. As the compliance date (June 30, 2020) for Reg BI and Form CRS approached, these risk alerts provided broker-dealers and investment advisers with information about the expected scope and content of the initial examinations for compliance. The initial examination period of Reg BI will focus on evaluating whether broker-dealers have made a good faith effort in implementing policies and procedures reasonably designed to comply with Reg BI. The initial examinations of Form CRS will focus on assessing whether firms have made a good faith effort in implementing Form CRS, and the process by which firms file and post their relationship summaries to existing and new retail investors.

"Regulation Best Interest and Form CRS are critical to the protection of Main Street investors, and we feel it is important to share our plans for initial examinations to help firms assess their preparedness as the June 30, 2020 compliance date nears," said Pete Driscoll, Director of OCIE. "Based on conversations we have had with the industry, we know firms have made substantial progress in implementing these new rules. We understand that this implementation will be an iterative process, and our focus will be on firms continuing good faith and reasonable efforts, including taking into account firm-specific effects from disruptions caused by COVID-19."

SEC Adopts Offering Reforms for Business Development Companies and Registered Closed-End Funds

On April 8, 2020, the SEC voted to adopt rule amendments to certain provisions of the Small Business Credit Availability Act and the Economic Growth, Regulatory Relief, and Consumer Protection Act relating to BDCs and other closed-end funds. These amendments will streamline the registration, offering, and investor communications processes for BDCs and registered closed-end funds. The reforms will allow eligible funds to engage in a registration process that includes modernized communications and prospectus delivery procedures and requirements. As a result, BDCs will be more efficient in responding to market opportunities. These changes are designed to better align the modern immediately-effective or automatically-effective offering process long available to other types of funds with the structures of the newly eligible funds. Most of these amendments will become effective on August 1, 2020.

"The amendments we are adopting will modernize the offering process for eligible funds in a way that, as borne out by our experience with operating companies, will benefit both investors in these funds and the companies in which they invest," said SEC Chairman Jay Clayton. "This is another example of our staff's laudable efforts to modernize our rules in a manner that furthers all aspects of our mission. It is my hope, particularly when many of our small and medium sized businesses are facing profound challenges not of their own making, that these and other modernization efforts will provide those businesses more efficient access to financing."

SEC Proposes to Modernize Framework for Fund Valuation Practices

On April 21, 2020, the SEC announced that it had voted to propose a new rule that would establish a framework for fund valuation practices. The proposed rule clarifies how fund boards can satisfy their valuation obligations in light of market developments, including an increase in the variety of asset classes held by funds and an increase in both the volume and type of data used in valuation determinations. It also sets forth requirements for satisfying a fund board's obligation to determine fair value in good faith for purposes of the Investment Company Act of 1940 ("1940 Act"). Fund boards would be required to assess and manage material risks associated with fair value determinations; select, apply, and test fair value methodologies; oversee and evaluate any pricing services used; adopt and implement policies and procedures; and maintain certain records. Since most fund boards do not play a daily role in the pricing of fund investments, the proposed rule would permit a fund's

board to assign the determination of fair value to the fund's investment adviser. However, this would require specific reporting by the adviser both periodically and promptly; a clear specification of responsibilities and reasonable segregation of duties among the adviser's personnel; and additional recordkeeping. The board is required to have active oversight of this process.

"The way a fund values its investments is critical to our Main Street investors," said SEC Chairman Jay Clayton. "It affects the fees they pay, the returns they receive, and the value of the fund shares they hold. Today's proposal would improve valuation practices, including oversight, thereby protecting investors and improving market efficiency, integrity and fairness."

Rulemaking Petition Accuses SEC of Attempting to Eliminate Rule 12b-1 Fees

A rulemaking petition dated April 29, 2020 by the Competitive Enterprise Institute, the New Civil Liberties Alliance, the Financial Services Institute, and the American Securities Association alleges that the SEC has for years attempted to eliminate Investment Company Act Rule 12b-1 fees. The petitioners call for greater transparency through notice and comment rulemaking instead of the casual methods they claim the SEC uses to hinder Rule 12b-1's effectiveness. In 1980, the SEC adopted Investment Company Act Rule 12b-1 in order to allow mutual funds to finance the distribution of their securities. However, under Rule 12b-1(a), a mutual fund can only act as a distributor of its own securities through an underwriter. Rule 12b-1(b) creates an exception to this rule, but requires a mutual fund to have a written plan describing the material aspects of how it intends to finance the distribution among several other conditions. Additionally, the petitioners argue that while some investors may shy away from funds that charge Rule 12b-1 fees, the ability of funds to charge these fees gives investors a variety of fund choices. The petitioners also criticize the SEC's Share Class Selection Disclosure Initiative, which encourages funds to self-report any improper behavior related to Rule 12b-1 fees, as a failed attempt to modify Rule 12b-1. In conclusion, the petitioners reprimanded the SEC for attempting to retroactively coerce compliance outside of the rulemaking process.

CII Wants Funds to Explain What Is Meant by ESG

Responding to the SEC's request for comments on whether and how to update Rule 35d-1 of the 1940 Act, which prohibits deceptive or misleading fund names, the Council of Institutional Investors ("CII") took the position that an asset-based test for determining whether a particular name is misleading should value the fund's assets at fair value. In its letter dated May 5, 2020, the CII also addressed the ambiguous use of the terms "Environmental, Social, and Governance ("ESG")" and "sustainability." The CII noted the SEC's observation that sometimes "ESG" refers to an investment strategy; in that case, the names rule does not apply, and the fund does not need to invest 80 percent of assets that way. In other cases, "ESG" refers to a type of investment, which is subject to the names rule. In addition, the CII said that because "ESG" or "sustainable" sometimes describes an investment strategy and other times a type of investment, the SEC should require all funds using those terms to describe what they mean by them.

SEC Directs Equity Exchanges and FINRA to Improve Governance of Market Data Plans

On May 6, 2020, the SEC issued an order directing the equity exchanges and the Financial Industry Regulatory Authority ("FINRA") to submit a new National Market System ("NMS") plan. The order calls for a modernized governance structure for the production of publicly consolidated equity market data and the dissemination of trade and quote data from trading venues. Recent market developments have raised concerns over whether the existing NMS plans for equity market data fulfill their regulatory purpose in ensuring the availability of information with respect to quotations for and transactions in securities. Under this order, the equity exchanges and FINRA must submit a new NMS plan, which will be published for public notice and comment before the SEC takes action. However, until the SEC approves a new NMS plan, the current NMS plans will govern. This order is part of a broader effort by the SEC to modernize the U.S. NMS to better meet the needs of investors and other market participants.

"Today's action reflects careful analysis and deliberation on modernizing and improving access to equity market data and, as a result, our equity market structure more generally," said SEC Chairman Jay Clayton.

SEC Small Business Advisory Committee Discusses COVID-19 Impact, Endorses Exempt Offerings Proposal

The SEC's Small Business Capital Formation Advisory Committee held a virtual meeting on May 8, 2020. The members assessed the impact of COVID-19 on small businesses and were provided with an overview of the SBA's Paycheck Protection Program, a part of the CARES Act that provides relief to smaller business affected by the COVID-19 crisis. The committee also unanimously voted to recommend that the SEC institute its proposal to harmonize its exempt offering framework, which was approved by a 3-1 vote in March 2020. The Committee's vote was divided into five subtopics: (i) increasing offering limits under Regulation Crowdfunding, Rule 504 of Regulation D, and Regulation A; (ii) relaxing restrictions on demo days and "testing the waters" communications; (iii) proposed provisions that would align the financial disclosures required for non-accredited investors under Rule 506(b) with those under Regulation A; (iv) proposed modifications to align Regulation Crowdfunding with Regulation A, which includes crowdfunding, individual investment limits, Regulation A eligible issuers, and other eligible securities; and (v) proposed provisions to the "facts and circumstances test" on integrated offerings, as well as non-exclusive safe harbors where certain securities offerings will not be presumed to have been integrated.

SEC Announces New Investor Advisory Committee Members

On May 15, 2020, the SEC announced the appointment of six new members to its Investor Advisory Committee, which was established under the Dodd-Frank Wall Street Reform and Consumer Protection Act to advise the SEC on regulatory priorities, regulation of securities products, trading strategies, fee structures, and disclosure effectiveness. The Investor Advisory Committee met three times during the second quarter of 2020.

AMAC Reviews ESG and Private Investment Subcommittee Work, Discusses COVID-19 Impact

On May 27, 2020, the SEC's Asset Management Advisory Committee ("AMAC") met to review the work streams of its ESG and Private Investment subcommittees and to discuss the effects of COVID-19 on the asset management industry. The ESG subcommittee work streams included: (i) determining whether ESG is about values or value; (ii) assessing performance of ESG strategies; (iii) considering ESG proxy voting policies; (iv) determining issuer disclosure of ESG data; and (v) deciding the role of ESG rating systems and benchmarks. At the meeting, SEC Chairman Jay Clayton restated his belief that he had not seen any circumstances where combining an analysis of ESG issues would facilitate meaningful investment analysis for investment decisions. He added that the SEC has requested advice from active portfolio managers with established track records, and that he appreciates the industry's efforts to inform the SEC on ESG issues. The Private Investment subcommittee had two work streams: (i) measuring full cycle returns from private investments; and (ii) understanding the current SEC exemptions and restrictions on private offerings. In this regard, the subcommittee plans to review SEC releases and the access framework in areas such as private equity, real estate, and private debt. After the subcommittee presentations, three speakers provided their views on the impact of COVID-19 on the asset management industry. One of the speakers, Sean Collins, Chief Economist of the Investment Company Institute, stated that while COVID-19 created a strain on the financial markets, the action of the SEC and governmental lending programs for businesses and financial institutions have provided exemptive relief for funds. In relation to the initiatives that have helped stabilize the markets, Collins stated that despite the drop in the stock market, equity markets have remained open and functional. This is due to the ability of fund advisors' employees to work from home in processing purchases, redemptions, and investor inquiries. Lastly, Collins praised the efforts of the SEC, the Federal Reserve, the U.S. Department of Treasury, and Congress in mitigating the damage of COVID-19 on the markets.

SEC Issues No Action Relief in Shareholder Bid to Declassify Board

On June 17, 2020, the SEC's Division of Investment Management ("Division") issued a No Action letter to First Trust Senior Floating Rate Income Fund II ("Fund") stating that it would not recommend action to the SEC if the Fund excluded a shareholder proposal from its 2020 annual meeting. The shareholder sought to propose that the Fund's Board of Trustees ("Board") declassify the Board so that trustees are elected on an annual basis starting at the next annual meeting of shareholders. The Fund argued, among other things, that pursuant to Rule 14a-8(b)(1) of the Securities Exchange Act of 1934, the proposal should be excluded from the proxy materials as the shareholder does not hold

securities entitled to be voted on the proposal. The Division agreed with the Fund in finding that the shareholder holds securities that are only entitled to vote on certain matters, which do not include the subject matter of the proposal. In reaching its position, the Division did not find it necessary to address the Fund's alternative bases for omission of the proposal.

OCIE Issues Risk Alert Regarding Investment Advisers Managing Private Funds

On June 23, 2020, the OCIE issued a risk alert providing an overview of certain compliance issues it observed during examinations of registered investment advisers that manage private equity funds or hedge funds (collectively, "private fund advisers"). The risk alert discussed three general areas of deficiencies: (i) conflicts of interest; (ii) fees and expenses; and (iii) policies and procedures relating to material non-public information ("MNPI"). In its examinations, the OCIE noted several conflicts of interest, including those related to: (i) allocations of investments; (ii) multiple clients investing in the same portfolio company; (iii) financial relationships between investors or clients and the adviser; (iv) preferential liquidity rights; (v) private fund adviser interests in recommended investments; (vi) co-investments; (vii) service providers; (viii) fund restructurings; and (ix) cross-transactions. In the area of fees and expense issues, the OCIE noted deficiencies in: (i) the allocation of fees and expenses; (ii) disclosure regarding "operating partners;" (iii) valuation determinations; and (iv) the calculation and disclosure regarding certain types of fees. With respect to MNPI, the OCIE staff observed that private fund advisers failed to establish, maintain, and enforce written policies and procedures (including provisions of their codes of ethics) reasonably designed to prevent the misuse of MNPI. The OCIE encouraged private fund advisers to review their practices and written policies and procedures, including implementation of those policies and procedures, to address the issues discussed in the risk alert.

U.S. Department of Labor Proposes New Investment Duties Rule

On June 23, 2020, the U.S. Department of Labor ("Department") announced a proposed rule change to its investment duties regulation to provide guidance for plan fiduciaries in ESG investing. In considering the application of the fiduciary duties of prudence and exclusive purpose under section 404(a)(1)(A) and (B) of the Employee Retirement Income Security Act of 1974 ("ERISA"), the proposal intends to reiterate that plan fiduciaries may not invest in ESG products when they understand an underlying investment strategy of the vehicle is to subordinate return or increase risk for the purpose of non-financial objectives. The proposal would make five core additions to the regulation: (i) new regulatory text to codify the Department's position that ERISA requires plan fiduciaries to select investments based on financial considerations relevant to the risk-adjusted economic value of a particular investment; (ii) an express regulatory provision stating that the duty of loyalty under section 404(a)(1)(A) of ERISA restricts fiduciaries from subordinating the interests of plan participants and beneficiaries in retirement income and financial benefits under the plan for non-pecuniary reasons; (iii) a requirement for plan fiduciaries to consider other available investments in meeting their prudence and loyalty duties; (iv) an acknowledgement that ESG factors can be pecuniary, but only when they present economic risks or opportunities that would be considered a material economic consideration under generally accepted investment practices and new requirements for fiduciaries choosing among truly economically "indistinguishable" investments; and (v) a new provision for 401(k)-type plans that describe the requirements for selecting investment alternatives that include ESG objectives in their investment strategies or the fund's name.

"Private employer-sponsored retirement plans are not vehicles for furthering social goals or policy objectives that are not in the financial interest of the plan," said Secretary of Labor Eugene Scalia. "Rather, ERISA plans should be managed with unwavering focus on a single, very important social goal: providing for the retirement security of American workers."

Financial Regulators Modify Volcker Rule

On June 25, 2020, five federal regulatory agencies finalized a rule modifying the Volcker Rule's prohibition on banking entities investing in or sponsoring hedge funds or private equity funds—known as covered funds. The Volcker Rule restricts banking entities from engaging in proprietary trading and from acquiring or retaining ownership interests in, sponsoring, or having certain relationships with a hedge fund or private equity fund. This final rule modifies the Volcker Rule by: (i) streamlining the covered funds portion of the Rule; (ii)

addressing the extraterritorial treatment of certain foreign funds; and (iii) permitting banking entities to offer financial services and engage in other activities that do not raise concerns that the Volcker Rule was intended to address. These changes will become effective on October 1, 2020.

ENFORCEMENT ACTIONS

SEC Orders Three Self-Reporting Advisory Firms to Reimburse Investors

On April 17, 2020, the SEC announced it had settled charges against two advisers that self-reported as part of the Division of Enforcement's Share Class Selection Disclosure Initiative, and a third adviser that self-reported within months of the initiative's self-reporting deadline. The voluntary initiative announced by the Division of Enforcement in February 2018 provided advisers an opportunity to self-report that they had failed to fully and fairly disclose their conflicts of interests in selecting for their advisory clients more expensive mutual fund share classes that paid 12b-1 fees when lower-cost share classes were available for the clients and be eligible for standard settlement terms that did not include the imposition of a civil penalty. With the announced settlements, the SEC has ordered more than $139 million to be returned to investors as part of the initiative.

"This incredibly successful initiative led to the return of almost $140 million to harmed investors, stopped wrongful conduct, and highlighted the importance of an adviser's obligations to provide full and fair disclosures to clients," said C. Dabney O'Riordan, Co-Chief of the Asset Management Unit. "We continue to actively pursue disclosure failures that financially benefit the adviser to the detriment of the client."

SEC Settles Charges Related to Misleading Wrap Fee Program

On May 12, 2020, the SEC announced that it had reached a settlement agreement with a large investment advisory and brokerage firm. The SEC alleged that the firm provided misleading information to clients in its retail wrap fee programs concerning trade execution services and transaction costs. The SEC found that the firm marketed its wrap fee accounts as offering clients professional investment advice and other services within a "transparent" fee structure that would not likely incur additional trade execution costs. However, from October 2012 until June 2017, some firm managers regularly directed wrap fee clients' trades to third-party broker-dealers which incurred additional transaction fees not visible to some clients. The SEC order found that certain firm clients were unable to assess the value of the services received in exchange for the wrap fee paid to the firm. Without admitting or denying the findings, the firm consented to the SEC's order, which finds that the firm violated provisions of the Investment Advisers Act of 1940, imposes a five-million-dollar penalty, and includes a censure and a cease-and-desist order. The order also creates a Fair Fund to distribute the penalty paid by the firm to harmed investors.

Investment Adviser Charged with Fraudulently Inflating Values of its Managed Funds

On May 12, 2020, the SEC announced that it obtained the appointment of a receiver over a Florida-based investment adviser, its affiliate, and several funds managed by the adviser to protect investors from an alleged fraudulent scheme. The SEC's complaint, filed in the U.S. District Court for the Southern District of Florida, alleges that the adviser wrongfully recognized revenue in order to fraudulently inflate the net asset values and performance of several of its managed funds. As a result, the funds always reported positive returns, which the adviser then used for its promotional materials to current and prospective investors. The SEC also alleges that the funds paid inflated management fees to the adviser and inflated performance fees to its affiliate. The SEC complaint charges the adviser and its affiliate with violating the antifraud provisions of the federal securities laws, and seeks permanent injunctions, disgorgement of allegedly ill-gotten gains with prejudgment interest, and financial penalties.

SEC v Paul Horton Smith Sr.; Northstar Communications, LLC; Planning Services, Inc.; and eGate LLC (Case No. No. ED CV 20-1056 PA (SHKx) C.D. Cal.)

On May 22, 2020, the SEC announced that it had filed an emergency action and obtained a temporary restraining order and asset freeze against Paul Horton Smith Sr., a California-registered investment adviser, and his entities to halt an ongoing Ponzi scheme targeting senior citizens in Southern California. The SEC alleges that from January 2018, Smith offered and sold securities in his company Northstar Communications LLC ("Northstar"), and used his

investment advisory firm eGate LLC ("eGate") and insurance and estate planning company Planning Services Inc. ("Planning Services") to market the securities. Smith and Northstar allegedly promised investors guaranteed annual interest payments between three and 10.5 percent for investing in so-called private annuity contracts. The SEC alleges that Smith instead used the funds to pay investor returns in a Ponzi-like fashion and to settle investor fraud lawsuits. According to the complaint, Northstar raised more than $5.6 million from at least 35 investors and paid out $5.2 million to those investors as interest payments. The complaint charges Smith, Northstar, eGate, and Planning Services with violating the antifraud provisions of the federal securities laws and seeks injunctions, the return of ill-gotten gains plus interest, and civil penalties.

***SEC v. William Sadleir* (Case 1:20-cv-03997 S.D.N.Y.)**
On May 22, 2020, the SEC announced charges against William Sadleir for allegedly defrauding a publicly traded fund of at least $13.8 million. According to the SEC complaint, a registered closed-end management investment company ("Investment Company") invested approximately $75 million in Aviron Group LLC, a film distribution company founded, owned, and operated by Sadleir. The SEC alleges that Sadleir then falsely represented that the investments would be used to support the company's distribution of films. Sadleir allegedly used a sham company to fraudulently divert and misappropriate the funds to pay for personal expenses, which include purchasing and renovating a Beverly Hills mansion, and issued fake invoices seeking Investment Company funds for services that were never provided. The SEC's complaint, filed in federal court in Manhattan, charges Sadleir with violating the antifraud provisions of the federal securities laws and seeks disgorgement of ill-gotten gains, civil penalties, and permanent injunctive relief. The U.S. Attorney's Office for the Southern District of New York also filed criminal charges against Sadleir.

SEC Finds Private Equity Firm and Registered Investment Adviser Failed to Prevent Misuse of Material Nonpublic Information
On May 26, 2020, the SEC announced that a Los Angeles-based private equity firm and registered investment adviser, agreed to pay one million dollars to settle charges for failing to implement and enforce policies and procedures reasonably designed to prevent the misuse of material nonpublic information. In 2016, the firm invested several hundred million dollars in a public company through a loan and equity investment that permitted the firm to appoint a senior employee to the company's board. The SEC order found that the firm did not have adequate compliance policies to account for the employee serving on the company's board while also participating in trading decisions regarding the company. As a result, the firm obtained potentially material nonpublic information about the company related to changes in senior management, adjustments to the company's hedging strategy, and decisions related to the company's assets, debt, and interest payments. Upon receiving this information, the firm purchased more than one million shares of the company's common stock, which accounted for 17 percent of the publicly available shares. The firm also did not require its compliance staff to adequately inquire into whether the board representative and members of his team possessed material nonpublic information relating to the company. The SEC order found that the firm violated the compliance policies and procedures requirements of Sections 204A and 206(4) of the Investment Advisers Act of 1940 and Rule 206(4)-7 thereunder. Without admitting or denying the findings, the firm consented to the entry of a cease-and-desist order and a censure and to pay a civil penalty of one million dollars.

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