Morgan Lewis | Report

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

May 11, 2023

www.morganlewis.com

This report is provided for your convenience and does not constitute legal advice or create an attorney-client relationship. Prior results do not guarantee similar outcomes. Attorney Advertising. Links provided from outside sources are subject to expiration or change.

© 2023 Morgan Lewis

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

The US Securities and Exchange Commission (SEC) on May 3, 2023 voted 3-2 to adopt amendments to Form PF[1] 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.[2]

---

[1] Form PF, adopted in 2011 as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is a confidential regulatory filing required by the SEC for certain SEC-registered investment advisers of private funds. The filing requires these private fund advisers to report regulatory assets under management for the Financial Stability Oversight Council (FSOC) to monitor and assess systemic risk in the US financial system as well as bolster the SEC's regulatory oversight of private fund advisers and investor protection efforts. An investment adviser must complete and file a Form PF if such adviser (1) is registered or required to register with the SEC as an investment adviser, *or* is registered or required to register with the Commodity Futures Trading Commission (CFTC); (2) manages one or more private funds; and (3) together with its related persons had at least $150 million in private fund assets under management as of the last day of its most recently completed fiscal year. Form PF filings are not available to the general public.

[2] Amendments to Form PF to Require Event Reporting for Large Hedge Fund Advisers and Private Equity Fund Advisers and to Amend Reporting Requirements for Large Private Equity Fund Advisers, Release No. IA-6297; File No. S7-01-22 (May 3, 2023), https://www.sec.gov/rules/final/2023/ia-6297.pdf. Definitions of pertinent terms include:

A "large hedge fund adviser" is an adviser that has at least $1.5 billion in regulatory assets under management attributable to hedge funds as of the end of any month in the prior fiscal quarter.

A "large private equity fund adviser" is an adviser that has at least $2 billion in regulatory assets under management attributable to private equity funds as of the last day of the adviser's most recently completed fiscal year.

A "hedge fund" is broadly defined to include any private fund (other than a securitized asset fund) that has any of the following three characteristics: (1) a performance fee or allocation that takes into account unrealized gains, (2) a high leverage (i.e., the ability to borrow more than half of its net asset value (including committed capital) or have gross notational exposure in excess of twice its net asset value (including committed capital)) or (3) the ability to short sell securities or enter into similar transactions

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.

NEW CURRENT REPORTING FOR LARGE HEDGE FUND ADVISERS AND ALL ADVISERS TO PRIVATE EQUITY FUNDS

The current version of Form PF does not require event-driven reporting. Today, large hedge fund advisers file Form PF quarterly and private equity fund advisers (and other private fund advisers) file Form PF annually. The SEC voted to amend the form in part because it believes that this information quickly becomes stale. Under the Form PF Amendments, upon the occurrence of certain triggering events, (1) large hedge fund advisers must report to the SEC as soon as practicable and no later than 72

(other than for the purpose of hedging currency exposure or managing duration). Nonexempt commodity pools that an investment adviser is required to report are automatically categorized as hedge funds. Vehicles established for the purpose of issuing asset-backed securities are excluded from the "hedge fund" definition in Form PF.

A "qualifying hedge fund" is defined as any hedge fund that has a net asset value (individually or in combination with any feeder funds, parallel funds, and/or dependent parallel managed accounts) of at least $500 million as of the last day of any month in the fiscal quarter immediately preceding the adviser's most recently completed fiscal quarter.

A "private equity fund" is a private fund that is not a hedge fund, liquidity fund, real estate fund, securitized asset fund, or venture capital fund and does not provide investors with redemption rights in the ordinary course. However, private funds that have the ability to borrow or short securities must file as a hedge fund.

hours after such occurrence; and (2) all private equity fund advisers must report on a quarterly basis within 60 days of each fiscal quarter end.

Implications for Advisers

There will be operational difficulties with the new time frames for reporting under the final rules. The Form PF Amendments will increase the compliance burden for private fund advisers, in particular for large hedge fund advisers, where the reporting period of "as soon as practicable" and in all cases within 72 hours that is applicable to such advisers would require real-time monitoring and testing. Among the factors that advisers should consider are the following:

- *"As soon as practicable"* – The Form PF Amendments use the standard of "as soon as practicable" for large hedge fund advisers' current reporting (and in all cases within 72 hours). It remains to be seen how the SEC will interpret such standard in the context of the triggering events, including whether the SEC will expect certain types of reports to be made on a more expedited time frame than 72 hours depending on the facts and circumstances.
- *"No later than 72 hours"* – The SEC adopted an hours-based standard for large hedge fund advisers, which is a first for the SEC and may signal future trends toward such time measurement. The 72-hour period begins upon the occurrence of a triggering event. A key factor for advisers to monitor will be when the clock has started for the required reporting window. The time frame for reporting means monitoring will capture weekends and holidays, and may require filing over the weekend, on holidays, and/or late at night, depending on the time when a triggering event occurs.
- *Service providers and counterparty oversight* – Certain current reporting categories, such as counterparty default and operations events, implicate the need for additional oversight over third parties in order to ensure timely reporting of any incidents. This could reshape the terms and conditions contained in service provider, prime brokerage, and other third-party agreements and impact the relationships and necessary communications between an adviser, its funds, and the third parties providing services to them.
- *Fund-of-one advisers* – The Form PF Amendments may also require reporting of events that occur at funds-of-one, which often have redemption, termination, removal, and investment period suspension and termination rights that can unilaterally be triggered by the single investor. The implication for advisers of funds-of-one is a potentially more frequent and burdensome reporting obligation, regardless of whether the termination or suspension is through no fault of the adviser.
- *Operational updates* – Not only would an adviser's policies and procedures need to be updated in advance of the effective date, but systems would also need to be updated to reflect the current reporting requirements. With limited time to submit a report after the occurrence of a triggering event, compliance with the reporting requirement may also strain resources that could be used to address a triggering event at critical times for an adviser and its funds.
- *Investor protection role* – The SEC's release also refers in multiple instances to its role in ensuring protection of fund investors. As such, advisers should be aware that SEC scrutiny may also ensue to the extent that a private fund adviser makes a current report. Moreover, private fund advisers are required to submit Form PF only to the SEC, but investors may inquire about it during due diligence processes.

The implications of the proposed rules are far-reaching, but not fully known at this point. As discussed below, triggering events differ depending on whether the adviser is an adviser to a large hedge fund, a large private equity fund, or, generally, a private equity fund.

Triggering Events for Large Hedge Fund Advisers Occurring in Their Advised Qualifying Hedge Funds

Extraordinary Investment Losses

Triggered by a loss equal to or greater than 20% of a fund's reporting fund aggregate calculated value[3] over a rolling 10-business-day period. Examples would include a fund with an RFACV of $1 billion that loses $20 million per business day for 10 consecutive business days or, alternatively, a loss of $200 million in one business day. The report would be required to include (1) the dates the loss occurred over the 10-business-day period, (2) the holding period return,[4] and (3) the dollar amount of the loss.

Additional reports could be necessary after the end of a 10-business-day period if the fund experiences a second loss of an additional 20% of the fund's RFACV over a second rolling 10-business-day period on or after the end date stated in the adviser's initial report.

Margin Increases

Triggered by a cumulative increase in margin of more than 20% of the reporting fund's average daily RFACV over a rolling 10-business-day period, even if the increase results from regulatory requirements. The report would be required to include the dates of the 10 business-day-period over which the increase occurred, the cumulative dollar amount of the increase, and the identity of the counterparty or counterparties requiring the increase (*consistent with the Proposal*), as well as the cumulative dollar value amount of margin, collateral, or an equivalent posted by the reporting fund at both the beginning and end of the 10-business-day period and the average daily RFACV of the reporting fund during the 10-business-day period during which the increase was measured (*both of which are new reporting items as compared to the Proposal*).

Under the Form PF Amendments, the adviser would also have to identify the circumstances of the margin increase, including

- exchange or central clearing counterparty requirements or known regulatory action affecting a counterparty;
- a counterparty independently increasing the reporting fund's margin requirements;

---

[3] A fund's "reporting fund aggregate calculated value," or "RFACV," is defined as "every position in the reporting fund's portfolio, including cash and cash equivalents, short positions, and any fund-level borrowing, with the most recent price or value applied to the position for purposes of managing the investment portfolio" and may be calculated using the adviser's own methodologies and conventions of the adviser's service providers so long as they are consistent with information reported internally. According to the Form PF Amendments, the RFACV definition permits funds to compute the value excluding accrued fees and expenses and without updating less frequently valued positions. Advisers using RFACV should rely upon the information available to them at that current point in time when filing this item. Using the RFACV is intended to be less burdensome than requiring a daily net asset value figure, as was in the original Proposal. (Page 20, Form PF Amendments (May 3, 2023).)

[4] "Holding period return," a new definition introduced to the Form PF Glossary, is defined to mean the cumulative daily rate of return over the holding period calculated by geometrically linking the daily rates of return. "Daily rate-of-return" is defined as the "percentage change in the reporting fund aggregate value [sic] from one day to the next and adjusted for subscriptions and redemptions, if necessary." (Page 22, Form PF Amendments (May 3, 2023).)

- the reporting fund establishing a new relationship or new business with a counterparty;
- new investment positions, investment approach or strategy, and/or portfolio turnover of the reporting fund;
- a deteriorating position or positions in the reporting fund's portfolio or another credit trigger under applicable counterparty agreements; and/or
- a reason "other" than those outlined above (in a change from the Proposal, an adviser checking "other" is required to provide a written explanation in the explanatory notes section in an effort by the SEC and FSOC to obtain additional context concerning the margin increase).

Margin Defaults

Triggered by a fund's margin default or inability to meet a call for margin, collateral, or an equivalent (taking into account any contractually agreed cure period, if the fund expects to be able to meet the margin call during such cure period). The report would be required to include the date of the margin default; dollar amount of the margin, collateral, or equivalent involved; and legal name and any legal entity identifier (LEI) of the counterparty, as well as the circumstances of the default (i.e., increased counterparty requirements, losses in the value of the portfolio or other credit trigger, a counterparty's default or settlement failure, or "other" reason, which will, in a change from the Proposal, require a written explanation in the explanatory notes section).

Multiple reports could be necessary if a fund is unable to meet margin or defaulted with multiple counterparties on different days. If the current reporting is triggered by multiple events on the same day, the adviser would file one current report broken out with details for each counterparty.

Counterparty Defaults

Triggered if (1) a counterparty to a reporting fund does not meet a call for margin or has failed to make any other payment, in the time and form contractually required (taking into account any contractually agreed cure period); and (2) the amount involved is greater than 5% of the reporting fund's RFACV. The report would be required to include the date of the default, dollar amount of the default, and the counterparty's legal name and any LEI.

Multiple reports could be necessary if multiple counterparties default on different days. If the current reporting is triggered by multiple defaults on the same day, the adviser would file one current report broken out with details for each counterparty.

Termination or Material Restriction in Prime Broker Relationships

Triggered by the termination or material restriction of a reporting fund's relationship with a prime broker. The reporting requirement adopted for this event is narrower compared to the Proposal's original requirement to report all material changes in a prime broker relationship. Under the Form PF Amendments, the report would be required when a prime broker terminates the relationship or "materially restricts its relationship with the fund, in whole or in part, in markets where that prime broker continues to be active." The "materially restricts" standard is included primarily to capture a prime broker imposing substantial changes to credit limits or significant price increases, or stating that it ceases to support the fund in an important market or asset type, even without a formal termination.[5]

[5] The Form PF Amendments further clarify that a "material restriction" is intended to capture circumstances where a prime broker changes the terms of its relationship with the reporting fund in a way that significantly limits the fund's ability to operate under the terms of the original agreement or

In an addition to the Proposal, the prime broker current reporting under the Form PF Amendments will also require reporting where there is a fund termination event and a cessation of the relationship, whether initiated by the prime broker or the fund. This reporting threshold narrows the circumstances that could give rise to a report by excluding termination events, as specified in the prime broker agreement or related agreements, that are isolated to the financial state, activities, or other conditions *solely of the prime broker*.

Instead, the current report is triggered with a termination of the relationship if it was terminated in the last 72 hours or less (i.e., the large hedge fund adviser 72-hour current reporting period), and a "termination event" was activated in the applicable prime brokerage or related agreement within the last 12 months. This triggering event is intended to capture termination events that indicate stress at a fund, such as nonroutine terminations (e.g., "key person" provisions reflecting departure of a manager) that may have occurred in the last 12 months.

Operations Events

Triggered when an adviser or reporting fund experiences a "significant disruption or degradation" of the reporting fund's "critical operations" (operations necessary for (1) the investment, trading, valuation, reporting, and risk management of the reporting fund; or (2) the operation of the reporting fund in accordance with federal securities laws and regulations). The report would be required to include the date of the operations event (or an estimate of when it occurred) and the date it was discovered.

Through checkbox reporting, the report will require additional information including an indication of (1) whether the event occurred at a service provider (in which case the service provider's information must be reported) or at a reporting fund, reporting fund adviser, or related person, (2) whether the event is related to a natural disaster or other force majeure event, or (3) whether an unlisted "other" event occurred.

In a change from the Proposal, this triggering event now provides an "other" option and, consistent with other required current reporting under the Form PF Amendments, if "other" is checked, an adviser is required to provide a written explanation in the explanatory notes section.

The SEC clarified that the Form PF Amendments that require an operations report are not synonymous with the initiation of a business continuity or disaster recovery plan, and there are events that may not trigger a firmwide business continuity plan that would, in any event, still require the current reporting of such operations event, such as the unavailability of a key person such that the fund is unable to perform its critical operations. The current report requires an adviser to indicate if it has initiated a business continuity plan relating to the operations of the adviser or reporting fund.

The report also must describe whether the event resulted in the disruption or degradation of (1) trading of portfolio assets; (2) the valuation of portfolio assets; (3) the management of the reporting fund's investment risk; (4) the ability to comply with applicable laws, rules, and regulations; or (5) any "other" type of operational impact than those outlined (which would require a separate explanatory note).

As compared to the Proposal, the SEC did not adopt the proposed 20% threshold for determining a "significant disruption or degradation" in recognition that there may be circumstances where it would be difficult to quantitatively measure disruptions in critical operations. While the 20% threshold is not formally reflected in the Form PF Amendments, the SEC did provide some guidance that, where

---

significantly impairs the fund's ability to trade, which would amount to an effective "firing" by the prime broker of the fund. (Page 39, Form PF Amendments (May 3, 2023).)

operations are reasonably measurable, a 20% disruption or degradation of normal volume or capacity generally might indicate a triggering event for current reporting of operations events.

The SEC also utilizes the term "critical operations" rather than the Proposal's use of "key operations," and further clarifies that the two operations referenced to as "critical operations" are intended to *each* be considered a "critical operation" (and not to be read as a combined definition requiring both elements as reflected in the Proposal).

This change broadens the scope of "critical operations" because an operations event need only satisfy one element for any significant disruption or degradation to trigger the current reporting (i.e., operations necessary for (1) the investment, trading, valuation, reporting, and risk management of the reporting fund *or* (2) the operation of the reporting fund in accordance with federal securities laws and regulations).

Furthermore, this triggering event has a subjective factor to evaluating what is a "significant disruption or degradation" and what is "necessary" to satisfy one of these "critical operations" elements. The current reporting of operations events will require both (1) subjective determinations in certain instances and (2) that an adviser has in place procedures to determine whether an event in the course of its operations rises to the level of a disruption requiring a report.

Redemptions in Excess of 50% of the Fund's Net Asset Value

Triggered when a reporting fund receives cumulative requests for redemption from the reporting fund equal to or more than 50%[6] of the most recent net asset value (after netting against subscriptions and other contributions from investors received and contractually committed).

The report must include (1) the date of occurrence; (2) the net value of redemptions paid from the reporting fund between the last Form PF reporting date and the date of the current report, as the percentage of the fund's net asset value that the redemption requests represent; and (3) whether the adviser has notified investors that the fund will liquidate. This triggering event is largely as proposed, with some minor edits for clarity.

Inability to Satisfy Redemptions

Triggered when a reporting fund is unable to satisfy redemptions or suspends redemptions for more than five consecutive business days.

The report must include (1) the date of occurrence, (2) the percentage of redemptions requested and not yet paid, and (3) whether the adviser has notified investors that the fund will liquidate. This triggering event is largely as proposed, with some minor edits for clarity.

---

[6] There is a discrepancy between the lead-in language for new Item H as compared to new Item H's actual question and the SEC release on this point. The lead-in language for new Item H indicates the reporting is triggered if a reporting fund receives cumulative requests "equal to or more than 50%" of the most recent net asset value of the fund. However, the SEC release and the questions at Item H, Question 5-30 refer only to the date when the redemptions "exceeded 50%" of the most recent net asset value. While this discrepancy may have little impact practically, there is the hypothetical scenario of redemptions of exactly 50% and whether that would trigger current reporting.

Triggering Events for All Advisers to Private Equity Funds (Reported on a Quarterly Basis Within 60 Days of Quarter End)

Execution of an Adviser-Led Secondary Transaction

Consistent with the Proposal, the Form PF Amendments define an "adviser-led secondary transaction" as any transaction initiated by an adviser or any of its related persons that offers private fund investors the choice to (1) sell all or a portion of their interests in the private fund or (2) convert or exchange all or a portion of their interests in the private fund for interests in another vehicle advised by the adviser or any of its related persons. Reporting of an adviser-led secondary transaction, including the transaction closing date and a description of the transaction, would occur upon the completion of such transaction.[7]

Whether a transaction is initiated by an adviser or its related persons is based on the specific facts and circumstances, though the SEC clarifies that it would not generally view a transaction as initiated by the adviser or its related persons if the adviser or one of its related persons, at the unsolicited request of an investor, participated in the secondary sale of such investor's fund interest. The definition of adviser-led secondary transaction does not appear to capture tender offers, cross-fund transfers, or other transaction structures where the election is not offered; however, it is too early to say whether additional guidance may be sought from, and issued by, the SEC to confirm this interpretation.

The SEC's commentary on this triggering event includes reference to conflicts of interest that may arise because the adviser is on both sides of the transaction with potentially different economic incentives, which is consistent with the SEC's increased scrutiny in recent years on conflicts of interest and the inclusion of reporting to investors of such conflicts.

The SEC release also indicates the reporting of adviser-led secondary transactions may help the SEC and FSOC in their efforts to monitor and evaluate systemic risk, such as potentially signaling a more systemic issue with traditional exit routes for disposition of a private equity fund's assets. Additionally, the definition of "adviser-led secondary transaction" mirrors that used in the private fund adviser proposal.[8] Inclusion of this item in the Form PF Amendments could suggest that the SEC intends to move forward with this aspect of the private fund adviser rulemaking.

Removal of a Fund's General Partner, Termination of a Fund's Investment Period, or Termination of a Fund

Consistent with the Proposal, the Form PF Amendments require an adviser to report when a fund receives notification that fund investors have (1) removed the adviser or an affiliate as the general partner or similar control person of a fund, (2) elected to terminate the fund's investment period, or (3) elected to terminate the fund, in each case as contemplated by the fund documents. This item requires reporting of the effective date of the applicable removal or termination event and a description of such removal or termination event.

Additional explanatory notes are also permitted for the new Section 6 private equity fund adviser current reporting, though they are optional for private equity fund advisers and not required as in the case of several reporting items for large hedge fund advisers. The SEC release indicates that the optional narrative response is available to a private equity fund adviser "if it believes that additional information is

---

[7] While the SEC release refers to a "*brief* description" of the adviser-led secondary transaction, Item B of Section 6 requires a "description of transaction."

[8] Private Fund Advisers; Documentation of Registered Investment Adviser Compliance Reviews, Release No. IA-5955; File No. S7-03-22 (Feb. 9, 2022), https://www.sec.gov/rules/proposed/2022/ia-5955.pdf.

helpful in explaining the circumstances" of the reportable events. The new current reporting questions already require a description of the triggering event(s).

Expanded Reporting for Large Private Equity Fund Advisers in their Annual Filing of Form PF

Implementation of Fund Clawbacks

Large private equity fund advisers are obligated to report on an annual basis implementation by a fund of general partner or limited partner clawbacks. This item was included in the original Proposal as a current reporting item for all private equity fund advisers. In the Form PF Amendments, reporting of clawback events is only required of large private equity fund advisers and would be included in their annual filing.

Consistent with the Proposal, a "general partner clawback" is defined as any obligation of the general partner, its related persons, or their respective owners or interest holders to restore or otherwise return performance-based compensation to the fund pursuant to the fund's governing agreements. Performance-based compensation includes both cash and noncash compensation, and required reporting is triggered at the time the general partner is obligated to return such amounts to the fund (regardless of when such compensation is actually returned).

Furthermore, consistent with the Proposal, a "limited partner clawback" is defined as an obligation of a fund's investors to return all or any portion of a distribution made by the fund to satisfy a liability, obligation, or expense of the fund pursuant to the fund's governing agreements. The Form PF Amendments require reporting for limited partner clawbacks in excess of an aggregate amount equal to 10% of the fund's aggregate capital commitments.

Reporting should occur for each additional limited partner clawback, regardless of its size, over the course of a fund's remaining life once such fund's aggregate limited partner clawbacks exceed the 10% threshold. Explanatory notes are also permitted, though they are optional in these circumstances.

Other Amendments to Large Private Equity Fund Advisers' Annual Form PF Reporting

In addition to the clawback reporting, large private equity fund advisers will be required to provide additional information in their annual filings, including (1) reporting on a private equity fund's investment strategies; (2) additional information on fund-level borrowing (including information on each borrowing or other cash financing available to the fund); and (3) amendments to existing questions related to additional details about events of default, information about bridge financing to controlled portfolio companies, and a geographical breakdown of investments by private equity funds as a percent of net asset value.[9]

Additional Items of Note

The SEC did not adopt in the Form PF Amendments the large hedge fund adviser current reporting item for "changes in unencumbered cash" from the original Proposal. The SEC expressed concern over the

---

[9] It is worth noting that the SEC did not adopt several proposed large private equity fund adviser questions in the Form PF Amendments (e.g., reporting re: restructuring/recapitalization of a portfolio company; investments in different levels of a single portfolio company's capital structure by related funds; financing of portfolio companies). The SEC recognized that these proposed questions would require portfolio company–level information, which is not always available to a fund, and thus the adopted Form PF Amendments for large private equity fund advisers are for information at the fund level.

potentially large number of false positives with this proposed current reporting item and indicated that other current reporting items that were adopted in the Form PF Amendments will provide real-time insight into fund stress and hedge fund stability, as was intended by the proposed reporting on changes in unencumbered cash.

Additionally, the Proposal originally contemplated requiring large liquidity fund advisers to report the same information that money market funds report on Form N-MFP (as proposed to be amended in December 2021), but the SEC indicated it is not adopting any such amendments at this time.

NEXT STEPS

The final amendments to Form PF, in particular the current reporting obligations imposed upon large hedge fund advisers and private equity fund advisers, represent a significant overhaul of the private fund industry's regulatory regime that introduces new, burdensome compliance monitoring and reporting obligations on the private fund industry.

The adoption of these amendments to Form PF formalizes one of many proposals that have been issued recently by the SEC. The proposals that remain outstanding and in consideration include (1) an additional investor reporting proposal of February 9, 2022 that would, among other things, cause advisers to rethink how they charge funds for certain fees and expenses and how they report to investors; and (2) a combined joint proposed rule of August 10, 2022, issued by the SEC and the CFTC, that, with respect to Form PF, would further amend required reporting for all advisers. We will continue to monitor any developments with respect to these, as well as numerous other, SEC proposed rules.

The Form PF Amendments will take effect, as relates to current reporting by large hedge fund advisers and private equity fund advisers, six months from publication in the *Federal Register*, and, as relates to the additional reporting in their annual Form PF by large private equity fund advisers, one year from publication in the *Federal Register*.

In advance of such effective dates, private fund advisers should consider reviewing their policies and procedures for any updates needed to address the new reporting requirements, including any necessary changes to meet the SEC's required time frames for reporting.

Large hedge fund advisers should be aware, in particular, of the monitoring and reporting requirements to ensure their systems are able to identify triggering events upon occurrence in order to report them in a timely manner (and no later than 72 hours from a triggering event).

Private fund advisers should also take note of when their regulatory assets under management exceed the threshold for a large hedge fund adviser or a large private equity fund adviser, since they will, at that time, be subject to the heightened reporting requirements for large advisers.

CONTACTS

If you have any questions or would like more information on the issues discussed in this report, please contact any of the following:

Authors

Christine M. Lombardo	+1.215.963.5012	christine.lombardo@morganlewis.com
Christine Ayako Schleppegrell	+1.202.739.5259	christine.schleppegrell@morganlewis.com
Joseph D. Zargari	+1.212.309.7020	joseph.zargari@morganlewis.com
Audrey A. Jeung	+1.415.442.1758	audrey.jeung@morganlewis.com

Morgan Lewis

New York

John D. Cleaver	+1.212.309.6931	john.cleaver@morganlewis.com
Christopher J. Dlutowksi	+1.212.309.6046	christopher.dlutowski@morganlewis.com
Jedd H. Wider	+1.212.309.6605	jedd.wider@morganlewis.com
Joseph D. Zargari	+1.212.309.7020	joseph.zargari@morganlewis.com

Boston

Richard A. Goldman	+1.617.951.8851	richard.goldman@morganlewis.com
Gerald J. Kehoe	+1.617.341.7840	gerald.kehoe@morganlewis.com
Daniel A. Losk	+1.617.341.7783	daniel.losk@morganlewis.com
Stephen C. Tirrell	+1.617.951.8833	stephen.tirrell@morganlewis.com

Washington, DC

Mana Behbin	+1.202.373.6599	mana.behbin@morganlewis.com
Gregg S. Buksbaum	+1.202.739.5080	gregg.buksbaum@morganlewis.com
Thomas S. Harman	+1.202.373.6725	thomas.harman@morganlewis.com
Ruoke Liu	+1.202.739.5583	ruoke.liu@morganlewis.com
Courtney C. Nowell	+1.202.739.5223	courtney.nowell@morganlewis.com
Christine Ayako Schleppegrell	+1.202.739.5259	christine.schleppegrell@morganlewis.com
Steven W. Stone	+1.202.739.5453	steven.stone@morganlewis.com

Philadelphia

Timothy W. Levin	+1.215.963.5037	timothy.levin@morganlewis.com
Christine M. Lombardo	+1.215.963.5012	christine.lombardo@morganlewis.com
John J. O'Brien	+1.215.963.4969	john.obrien@morganlewis.com

Miami

Ethan W. Johnson	+1.305.415.3394	ethan.johnson@morganlewis.com
Joy Crutcher Harrison	+1.305.415.3411	joy.harrison@morganlewis.com

Dallas

Carrie J. Rief	+1.214.466.4159	carrie.rief@morganlewis.com

San Francisco

Monica H. Chang	+1.415.442.1283	monica.chang@morganlewis.com
Peter M. Phleger	+1.415.442.1096	peter.phleger@morganlewis.com
Audrey A. Jeung	+1.415.442.1758	audrey.jeung@morganlewis.com

Chicago

Brian Jacobson	+1.312.324.1793	brian.jacobson@morganlewis.com
Zeke Johnson	+1.312.324.1783	zeke.johnson@morganlewis.com
Michael M. Philipp	+1.312.324.1905	michael.philipp@morganlewis.com
Sarah V. Riddell	+1.312.324.1154	sarah.riddell@morganlewis.com

Orange County

Jarrod A. Huffman	+1.714.830.0633	jarrod.huffman@morganlewis.com

ABOUT US

Morgan Lewis is recognized for exceptional client service, legal innovation, and commitment to its communities. Our global depth reaches across North America, Asia, Europe, and the Middle East with the collaboration of more than 2,200 lawyers and specialists who provide elite legal services across industry sectors for multinational corporations to startups around the world. For more information about us, please visit www.morganlewis.com.