

SEC's Private Fund Adviser Rules



Introducing the most significant private funds regulatory reform to SEC registered firms, wherever they are in the world, since the passage of the Dodd Frank Act.



Published
September 14, 2023



650+
pages of new directives



100k+
private funds impacted by
new regulation



Why?

Private fund assets under management have increased over **170%** over the last 10 years.

As investors continue to call on managers to provide diversification through private investments, the SEC has increased its focus and understanding of the asset class.

According to the SEC, there are three primary factors that contribute to investor protection risks and harm:

- » lack of transparency
- » conflicts of interest
- » lack of governance mechanisms.

This most recent set of rules looks to address those specific risk and harms.



Impact

6 new rules

- » x3 focused on transparency
- » x3 focused on fairness

- Quarterly Statements
- Private Fund Audits
- Fairness and Valuation Opinions
- Limitations on Preferential Treatment
- Restricted Activities
- Annual Compliance Review Documentation

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02/2024



Summary

Quarterly statements

Rule 211(h)(1)-2

- » Provide investors with statements reflecting funds fees, expenses, performance, compensation paid by portfolio companies to the adviser or related persons.
- » Must be designed to facilitate review from one quarter to the next.

Restricted activities

Rule 211(h)(2)-1

- » Restriction of certain practices involving private funds.
- » Covered practices including: the allocation of compliance fees, reduction in performance fee clawbacks by taxes, non-pro-rata expense allocations; borrowing from private funds.

Adviser-led secondaries

Rule 211(h)(2)-2

- » Requirement to obtain and distribute a fairness opinion or valuation opinion from an independent provider.
- » Disclose in advance any material business relationship between the adviser and independent opinion provider.

Preferential treatment

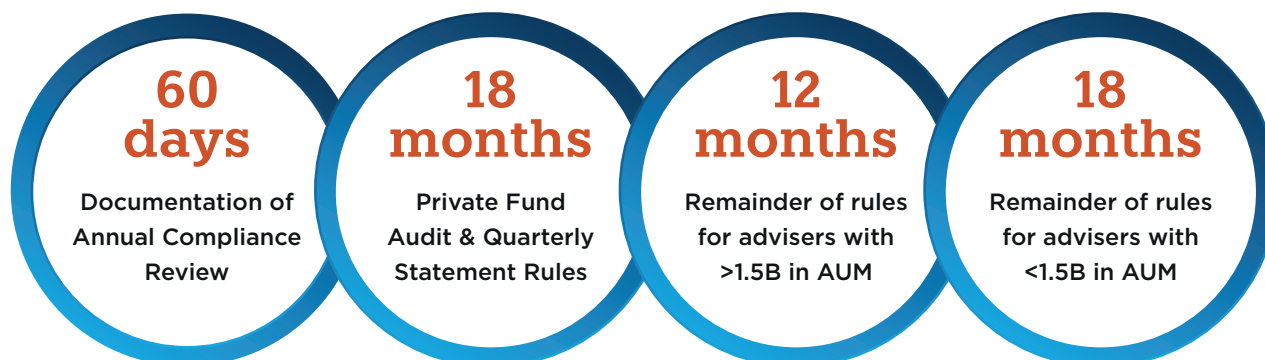
Rule 211(h)(2)-3

- » Limitation of ability of advisers to offer preferential redemption or information rights that could have a material negative impact on other investors.
- » Requirement to provide advanced disclosure to prospective investors and annual written notice to all investors of all preferential treatment.



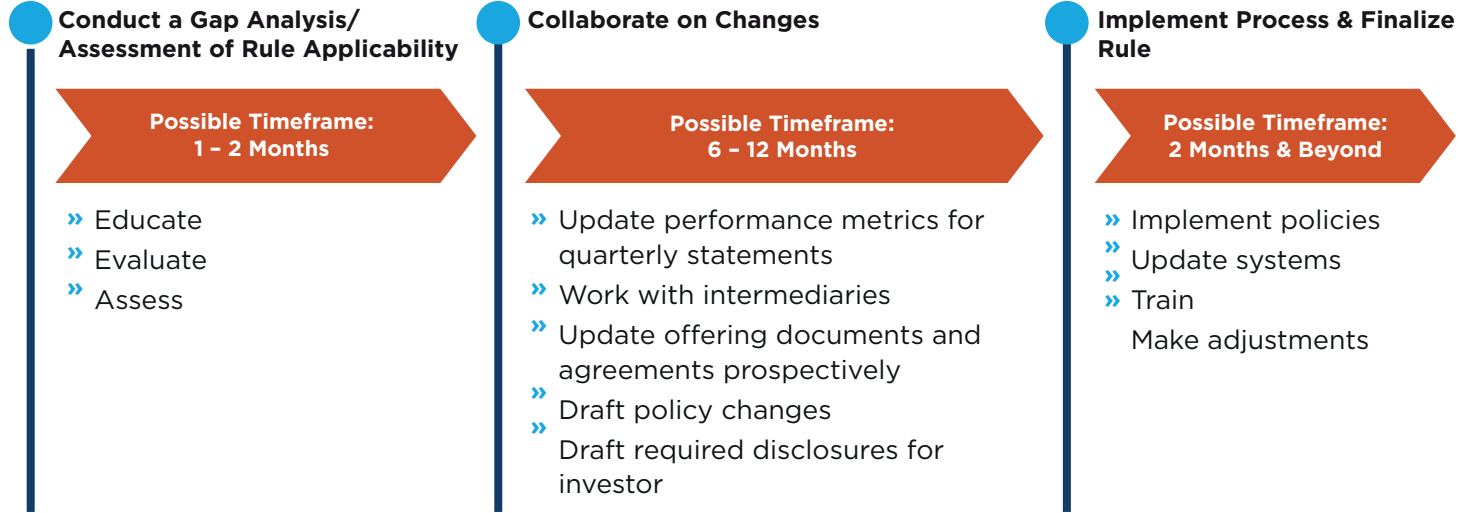
Timing

Deadlines for implementation following the September 14, 2023 date of publication of the rules in the Federal Register, with some dates staggered, depending on the size of the adviser.

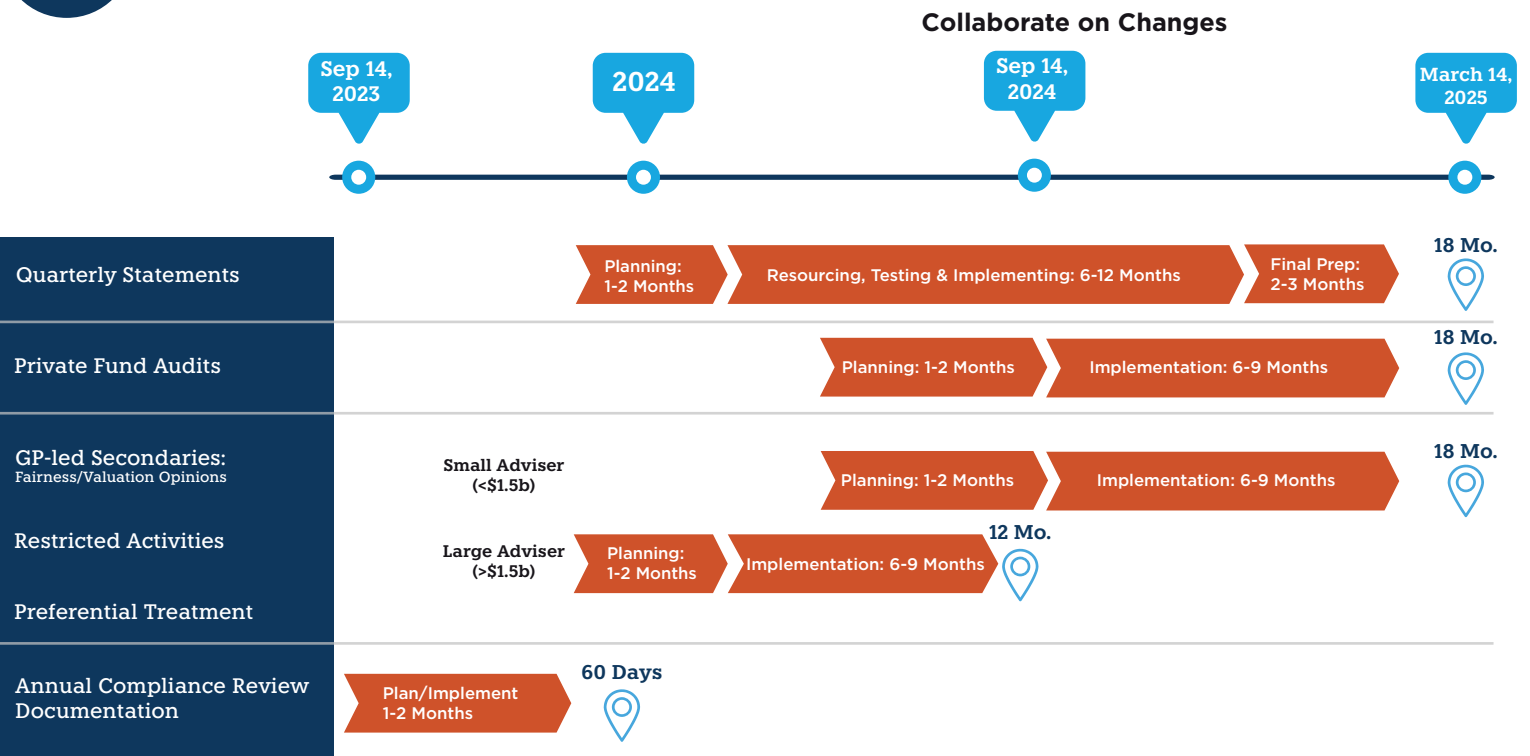




Preparation Timeline



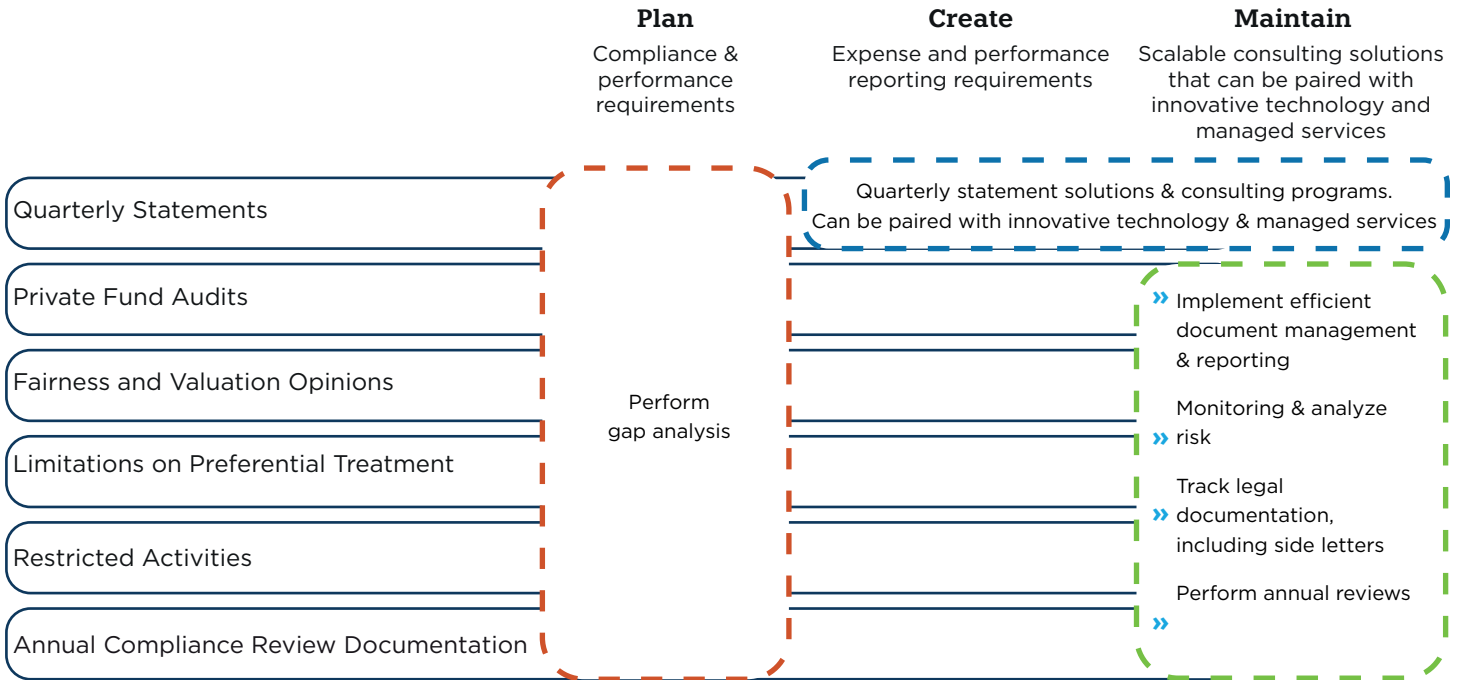
Roadmap





Solutions

The broad impact of these new rules will require close coordination across the management, compliance, finance, technology, and operations functions. Turning to a third-party for compliance and performance advisory, managed services, and regulatory technology introduces time and cost efficiency.



ACA Solutions	ACA's Private Fund Adviser Rules Gap Analysis	ACA's Quarterly Statement Solutions	ACA Signature for Private Fund Advisers ACA's ComplianceAlpha® RegTech
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Why ACA?

At ACA, we offer a blend of people, processes, and technology to help you meet these new requirements while balancing your monetary and time budgets. We've worked with clients to validate the approach and develop solutions that help address this impending regulation.

Our global team includes former regulators and practitioners with a deep understanding of the regulatory landscape. Our innovative approach integrates compliance, performance, ESG and cybersecurity advisory, managed services, distribution solutions, and analytics with our ComplianceAlpha® technology platform.

We work with:

81%
of the top 100 hedge funds

83%
of the top 100 private equity funds

74%
of the top 50 private real estate funds

72%
of the top 50 private debt firms