US Asset Management Regulatory Year in Review 2023 [Podcast]

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It is a dramatic understatement to describe 2023 as a busy year in the United States for asset management regulation. With 24 rules adopted and 18 new rules or rule amendments proposed, the US Securities and Exchange Commission (SEC) continued a rapid pace implementing its unprecedented regulatory agenda. One prevailing theme of this regulatory activity is operational resiliency, with many of the regulatory actions addressing market structure issues (e.g., transition to one business day after the trade date (T+1)) or imposing prescriptive requirements on asset manager operations (e.g., predictive data analytics).

In addition to regulatory activity, there were many notable developments with respect to asset manager examinations and enforcement with the SEC continuing to focus on bringing cases and examinations underscoring key priorities, such as off-channel communications and compliance with the new Rule 206(4)-1 (Marketing Rule) under the Investment Advisers Act of 1940 (Advisers Act). Developments have also come through litigation, with a pair of court decisions potentially impacting the ability for closed-end funds to adopt and enforce protective “control share” provisions.

No year in review can be complete without discussing the developments around environmental, social, and governance (ESG) investing. Fracturing of the US regulatory landscape continued in 2023 with several states considering and adopting laws and regulations governing how ESG investing may be pursued by asset managers engaged by state pension plans, or, in two instances, specifically regulating asset manager conduct. In addition, state executive agencies have been active with a multistate ESG investigation of asset managers.

Critically, we can project what 2024 will bring by looking at what has been included on the aggressive SEC agenda but remains to be done: climate risk disclosure for public companies; ESG disclosure rules for mutual funds and investment advisers; revisions to the investment adviser custody rule; revisions to the mutual fund liquidity rule and the potential imposition of swing pricing (and a hard close); and the list goes on.

We highlight in this piece some of the key developments from 2023 that we have been working on with our clients. The pace of regulatory change is quick and its scope is vast. The summaries below represent a brief overview and only a portion of the regulatory activity from the SEC and other regulators that could have an impact on the asset management industry going forward.

To access the US Asset Management Regulatory Year in Review 2023, click here.

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