

Private Fund Update

December 2, 2013



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Hope you all had a great Thanksgiving weekend. After a short holiday week, the big news this week is the expected vote in the House of Representatives on H.R. 1105, which would exempt private equity funds from having to register under the Investment Advisers Act.

This update contains:

- A preview of the upcoming floor vote on H.R. 1105;
- The panelists and agenda for Thursday's SEC Roundtable on proxy advisory services;
- Last week's Federal Reserve NY report showing how asset prices are influenced by comments made by the Federal Reserve Chairman;
- Last week's CFTC No Action Letter giving non-U.S. swap dealers who use U.S.-based personnel until January 14 to comply with certain Dodd-Frank requirements;
- The recent decision by the SEC's Dodd-Frank Investment Advisory Committee to recommend imposing user fees on registered investment advisors in order to fund additional SEC examinations; and
- Riverside Company COO Pam Hendrickson's [op-ed in Forbes](#) defending Timothy Geithner's move to a private equity fund.

The 113th Congress

House of Representatives

House Rules Committee

[H.R. 1105 Hearing](#) – The Rules Committee announced [that it will be meeting](#) on Tuesday, December 3 at 3:00 p.m. to consider [H.R. 1105](#), the Small Business Capital Access and Job Preservation Act, which would exempt private equity funds from registration under the Investment Advisers Act. Potential amendments to the bill are due on Tuesday, December 3 at 10:00 a.m. The Rules Committee's markup is a precursor to House floor consideration, which is expected to occur later in the week.

House Small Business Committee

[Hearing on Small Business Lending](#) – On Thursday, the HSBC will hold a hearing entitled "[Where Are We Now? Examining the Post-Recession Small Business Lending Environment](#)." Witnesses are:

- Ann Marie Wiersch, Policy Analyst, Federal Reserve Bank of Cleveland
- Jeff Stibel, Chairman and CEO, Dun and Bradstreet Credibility Corp.
- Mr. Renaud Laplanche, CEO, Lending Club
- Mr. Fred L. Green, III, President and CEO, S.C. Bankers Association

The Hearing Notice is [here](#).

House Financial Services Committee

[JOBS Act 2.0 Markup](#) – Last month the Committee passed several bills which are likely to be part of a JOBS Act 2.0 package, including:

- [H.R. 1800](#) (Grimm) – the Small Business Credit Availability Act; reduces regulatory requirements for business development companies (BDCs); as amended, [passed on a partisan 31-26 vote](#);
- [H.R. 2274](#) (Huizenga) – Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act; creates a simplified regulatory regime for small M&A brokers; [passed by a 57-0 vote](#);
- [H.R. 3329](#) (Luetkemeyer) – requires the Federal Reserve to modify the Small Bank Holding Company Policy Statement to ease regulatory burdens on small bank holding companies and small savings and loan companies; passed by voice vote;
- [H.R. 3468](#) (Royce and Perlmutter) – Credit Union Share Insurance Fund Parity Act, would amend the Federal Credit Union Act to extend insurance coverage to amounts held in a member account on behalf of another person; passed by voice vote; and
- [H.R. 3448](#) (Duffy) – Would provide for an optional pilot program allowing certain emerging growth companies to increase the tick sizes of their stocks; as amended, [passed on a 57-0 vote](#).

Although the Committee agreed on most issues regarding BDC reform, the issue of increasing the leverage ratio for BDCs proved too divisive. H.R. 1800 ultimately passed on a strictly partisan basis. This essentially dooms the legislation as written in the Democrat-controlled Senate, although it is possible that a modified version of the bill could move through this Congress.

The Senate

The Senate is not in session this week.

Senate Finance Committee

Late last month, SFC Chairman Max Baucus [released his tax reform package](#), including his proposed reforms to the cost recovery and tax accounting rules. Among other things, the proposal would change the rules for depreciation of tangible and intangible assets, repeal LIFO accounting, and allow companies with gross receipts under \$10 million to use cash accounting and expense inventory costs. Here are links to a [one-pager](#), [summary](#), and [technical explanation](#) of the proposed changes.

Securities and Exchange Commission

Panelists Announced for December 5 SEC Roundtable on Proxy Advisory Services

The SEC [announced the panelists and agenda](#) for this Thursday's Roundtable on the use of proxy advisory services by institutional investors and investment advisers. In 2010, the SEC issued [a concept release on the U.S. proxy system](#), and the roundtable will discuss the issues raised in the concept release.

Dodd-Frank Investor Advisory Committee Recommends User Fees on Registered IAs

The SEC's [Dodd-Frank Investor Advisory Committee](#) approved a [proposal to impose user fees on SEC registered investment advisers](#) to fund an enhanced investment adviser examination program by the SEC. The proposal recommends that Congress pass [H.R. 1627](#), the Investment Adviser Examination Improvement Act of 2013, authored by Congresswoman Maxine Waters (D-CA). This proposal [was supported](#) by the Investment Adviser Association and other groups.

The Committee also approved a second proposal that would encourage the SEC to [conduct a rulemaking to impose a fiduciary duty on broker-dealers](#) when they provide personalized investment advice to retail investors.

A link to the full video of the meeting is [here](#).

Commodity Futures Trading Commission (CFTC)

No Action Relief on Cross-Border Swaps

Two weeks after [releasing controversial guidance](#) that a non-U.S. swap dealer registered with the Commission must comply with the transaction-level requirements of Dodd-Frank when entering into a swap with a non-U.S. person if the swap is arranged, negotiated, or executed by personnel or agents located in the United States, the CFTC [extended the requirement date](#) until January 14, 2014 via a No Action Letter.

Weekly Swaps Report

CFTC Chairman Gary Gensler [announced the initiation of the CFTC Weekly Swaps Report](#). The weekly report will provide a detailed view of the swaps marketplace, covering the interest rate and credit asset classes that comprise about 90% of the approximately \$400 trillion swaps market. The report includes: the gross notional outstanding value, the weekly transactions measured by dollar volume, and the weekly transactions measured by ticket volume.

The Administration

The Office of Management and Budget [has not \(yet\) issued](#) a Statement of Administrative Policy regarding H.R. 1105, a sign that the Administration may not take a hardline stand against the bill.

Private Equity Growth Capital Council (PEGCC)

Quarterly Report on Private Equity Investment

The Private Equity Growth Capital Council released a report showing [private equity investment volume increased for the second consecutive quarter during Q3 2013](#). U.S. private equity investment increased 7% to \$87 billion during the third quarter, from \$82 billion in Q2. [The full report](#) also found that equity contributions for U.S. leveraged buyouts remained steady, and that callable capital reserves, or “dry powder,” of global buyout funds increased from \$361 billion at the end of the second quarter to \$384 billion as of September 2013, a 6% gain.

Miscellaneous

Federal Reserve Bank of New York Study: Fed’s Press Conference

The Federal Reserve Bank of New York [released a brief study](#) showing how asset prices move in reaction to the Chairman of the Federal Reserve’s press conference following the release of the Federal Open Market Committee (FOMC) statement. It is a short read, and confirms what most people have known all along – that the FOMC statement and the Chairman’s comments have a material impact on the stock market, exchange rates, and government bonds.

Pam Hendrickson Op-Ed Defending Tim Geithner’s Move to Warburg Pincus

Pam Hendrickson, Chairman of the Board for the Association for Corporate Growth and COO of The Riverside Company, [wrote an op-ed piece in Forbes](#) defending former Treasury Secretary Timothy Geithner’s move to Warburg Pincus, a leading private equity firm.

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