

Unicorns: The Tale Continues

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Potential disputes involving [unicorns have been a hot topic](#) for the last several years. We predicted that would continue this year in our [webinar](#) and related blog post: [The Top Ten Regulatory and Litigation Risks for Private Funds in 2018](#). In April, the Regional Director of the SEC's San Francisco office, Jina Choi, confirmed this in her comments during a [San Francisco Federal Bar Association panel](#). Specifically, Ms. Choi discussed the SEC's actions against Zenefits, Credit Karma, and Theranos, and reiterated the SEC's continued commitment to monitoring suspected investor fraud in privately-held companies. Ms. Choi also highlighted the settlement remedies in Zenefits and Theranos, including specifically that both settlement agreements required the company and individual officers at the company to pay penalties.

We expect to see the SEC continue to focus on unicorns in future investigations and proceedings. Private companies should prepare for increased scrutiny of their investor disclosures, particularly those related to and affecting the company's valuation. In addition, they should ensure their disclosures comply with Rule 701(e) of the Securities Act when granting stock options to employees, as the SEC noted in the [Credit Karma settlement](#). Finally, SEC actions may spark parallel private actions by investors against the company.

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