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Top Ten Regulatory and Litigation Risks for Private Funds in 2021

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The regulatory and litigation risks for private funds are greater than at any time since the financial crisis in 2008. Just a few examples prove the point: the pandemic (which caused extraordinary volatility in revenues and valuations for most asset categories); a new administration in Washington D.C. (with a more muscular regulatory agenda); continued proliferation of digital assets (and increased valuations in various cryptocurrencies); unprecedented activity in SPACs (many of which are merging with PE-backed portfolio companies) and PIPEs; and continued extraordinary growth in AUM in private equity and private credit strategies (making private funds nearly ubiquitous in the capital markets). Any one of these factors would materially increase risks for litigation and regulatory enforcement but taken together they present an enormous challenge for the private fund industry. Insurance companies seem to be anticipating a changed environment as well, as premiums for many types of coverage have increased substantially.

Based on a variety of events and factors, we have developed this list of Top 10 Regulatory and Litigation Risks for Private Funds in 2021 to assist sponsors and managers to assess their own risks and take steps to mitigate their risk profile. We will be publishing a series of posts on each of these topics in the weeks ahead.

1. Increased Regulatory Scrutiny of Private Funds
2. The Ripples Behind the SPAC Wave
3. Valuation in Times of Market Disruption
4. Portfolio Companies Continue to be a Source of Litigation Risk
5. New Focus and Compliance Approach Needed for Privacy and Cybersecurity
6. Cryptocurrencies and Other Digital Assets: A New Regime
7. Return to Civil and Criminal Collaboration in White Collar under Biden Administration
8. Focus on ESG Will Continue to Grow Under Biden Administration

9. Private Credit Lenders Should Remain Vigilant in 2021
10. Navigating Brexit: What Funds Should Look Out for as the Dust Begins to Settle

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