



Contact

**Joshua M. Newville**

**Partner**

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Joshua M. Newville is a partner in the Litigation Department and a member of Proskauer's White Collar Defense & Investigations Group and the Asset Management Litigation team.

Josh handles securities litigation, enforcement and regulatory matters, representing corporations and senior executives in civil and criminal investigations. In addition, Josh advises registered investment advisers and private fund managers on regulatory compliance, SEC exams, MNPI/insider trading and related risks.

Before joining Proskauer, Josh was senior counsel in the U.S. Securities and Exchange Commission's Division of Enforcement, where he investigated and prosecuted violations of the federal securities laws. Josh served in the Enforcement Division's Asset Management Unit, a specialized unit focusing on investment advisers and the asset management industry. His prior experience with the SEC provides a unique perspective to help asset managers manage risk and handle regulatory issues.

## Matters

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## Asset Management

- Represented private equity fund manager in favorable settlement with the SEC involving fund fee offsets and expense allocations.
- Represented asset manager in SEC investigation involving MNPI issues, regulatory filings and trade compliance relating to portfolio company transactions.
- Represented independent board members of hedge fund complex and of registered investment company in SEC and CFTC investigations of underlying fund manager activities.
- Conducted expedited internal investigation of suspected improper use of confidential information by employee of a hedge fund.
- Represented fund manager in SEC investigation into valuation of multi-billion dollar investments and representations to investors.
- Advising hedge fund managers on compliance policies and managing potential exposure relating to MNPI/insider trading risks.
- Represented private equity fund adviser in SEC/DOJ inquiries regarding blow-up of major portfolio investment.
- While at the SEC, litigated proceedings against private equity fund manager for misleading investors regarding fund valuation and fees.
- Counseling private equity fund advisers regarding compliance with SEC rules, including the Advisers Act, pay-to-play rules, whistleblowers, performance marketing, the custody rule, and fee and expense disclosure obligations.
- Advising fund managers undergoing surprise and for-cause SEC examinations and related regulatory demands.

## Financial Services

- Represented financial services company and affiliated investment adviser in SEC investigation, U.S. Attorney's Office criminal probe and foreign

regulatory matters relating to illiquid investment portfolio.

- Advised registered broker-dealer in SEC and FINRA inquiries involving alleged insider trading by an employee.
- Conducted internal investigation in response to whistleblower complaints raised against a registered investment adviser regarding fee and expense disclosures.
- Represented investment bank and its employees in SEC investigation involving the structuring and rating of an asset-backed securities transaction.
- While at the SEC, led investigation of prearranged trading and “parking” scheme involving a portfolio manager at a multibillion dollar asset manager and trader at a registered broker-dealer.
- Conducted multiple internal investigations for insurance companies in response to government regulatory inquiries relating to criminal antitrust and civil securities violations.

### **Accounting and SEC Disclosure Matters**

- Conducted internal investigation on behalf of audit committee of publicly traded company involving revenue recognition and material weakness in accounting controls; successfully resolved SEC investigation with no enforcement action.
- Represented senior executive in SEC investigation of potential FCPA and internal control violations and improper revenue recognition practices.
- Ongoing advice and compliance training for publicly-traded entity on FCPA and anti-corruption risks.
- While at the SEC, conducted investigation of publicly-traded company and executives for alleged violations of fair value hedge accounting rules relating to commercial loans and swaps.
- While at the SEC, investigation of major financial institution suspected of improperly valuing subprime CDOs in violation of accounting rules and valuation policies, and concealing information from auditors.

- Represented board of directors in securities litigation alleging GAAP violations in connection with multi-billion dollar restatement.
- Represented publicly-traded entity in connection with SEC investigation of disclosures of company charter revisions.

## Securities and Derivative Litigation

- Served on the trial team for one of the largest federal securities class actions to go to a jury.
- Represented board of directors in government investigation and securities litigation alleging accounting violations and derivative claims arising from government conservatorship.
- Defended underwriter of mortgage-backed securities against attempted contractual put-back of purported faulty mortgage loans, case was favorably settled on eve of trial.

## Other notable matters handled at the SEC:

- Investigated secondary market trading in pre-IPO companies in a matter examining security-based swap transactions and compliance with registration requirements.
- Litigated complex market manipulation case against 14 defendants, including fraud claims against a law firm, offshore broker-dealer and foreign stock promoters.
- Investigated alleged valuation and cross trading improprieties by hedge fund adviser.
- Investigated alleged fraudulent sales practices by one of the world's largest wealth management advisers.
- Conducted expedited investigation to halt ongoing fraudulent boiler room targeting elderly investors; case resulted in criminal charges against various individuals.

- Led SEC investigation of fraudulent offshore organization involved in stock market manipulation and money laundering.
- Litigated fraud claims against principals of a broker-dealer and investment adviser who ran a Ponzi scheme offering private fund investments.

#### Practices

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Investment Management , Securities Litigation, Private Funds, Asset Management Litigation, White Collar Defense & Investigations, Broker-Dealer

#### Industries

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Asset Management , Financial Institutions, Private Equity

#### Education

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New York University School of Law, J.D., 2001

University of Kansas, B.S., 1998

*with Highest Distinction*

#### Court Admissions

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U.S. District Court, New York, Southern District

U.S. District Court, New York, Eastern District

U.S. District Court, New York, Northern District

#### Awards & Recognition

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The Legal 500 United States: Securities: Litigation Defense 2017

The Legal 500 United States: Litigation: White-Collar Criminal Defense 2017, 2019

#### Government Service

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Senior Counsel, Division of Enforcement, U.S. Securities and Exchange Commission