

## INVESTMENT FUNDS ALERT

### SEC HEDGE FUNDS MANAGER RESTRICTION RULE STRUCK DOWN



In a long-awaited decision, the DC Circuit earlier today struck down the SEC's rule requiring hedge fund managers to register as investment advisers. The court concluded that the SEC failed to justify departure from its own prior interpretations of the Investment Advisers Act of 1940, characterizing the new rule as "completely arbitrary." Because the court's decision appears to leave little room for the SEC to re-fashion the rule, the SEC's options appear to be limited. The SEC could seek further judicial review of the DC Circuit's decision or could pursue legislation to amend the Investment Advisers Act. At this juncture, we consider it unlikely the SEC will pursue either of these courses of action. The court's ruling raises a number of questions for hedge fund managers, including whether managers that registered will wish to deregister and whether funds that have established longer lock-up periods to avoid registration will wish to remove them. Managers now in the process of registration should consider discontinuing the process pending further guidance or clarification from the SEC. We are preparing a more detailed discussion of this important decision for circulation in the near future.

## CONTACT INFORMATION

If you have questions or would like to learn more about this topic, please contact the partner who represents you, or:

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