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Concerns Raised Over Commission's Proposal Regarding Private Funds Regulation (fraud)

The Commission proposes regulatory rules for private funds seemingly aimed at fraud prevention. However, it fails to show existing measures are inadequate or that fraud rates are higher in this sector compared to others. Section () which is being used as justification for the reporting rules, necessitates clear definitions of fraudulent, deceptive, or manipulative acts, which the Commission hasn't adequately provided. Also, the theoretical benefits of the proposed rules, like better assessment and comparison of investment options, don't directly link to fraud prevention. Further concerns arise from the unclear demonstration of how proposed rules would prevent intended fraud, rather than accidental errors. The contentions increase due to a lack of evidence proving these requirements would effectively prevent fraud. There's additional failure to prove the rules are well-designed for fraud prevention considering the burdensome nature of the reporting rules on advisers. Lastly, the proposal primarily seeks to protect 'qualified purchasers', sophisticated investors already receiving comprehensive reports regularly, adding more justification for questioning the necessity of extra regulatory measures.

Concerns and Criticisms of a New Regulatory Proposal for Private Fund Advisers (nist)

Multiple research institutes such as the Center for Retirement Research at Boston College, MissionSquare Research Institute, the National Association of State Retirement Administrators, and the Government Finance Officers Association have raised concerns on a new regulatory proposal for private fund advisers. The proposal is viewed as fundamentally flawed and unnecessarily burdensome for multiple reasons. Firstly, it is alleged to exceed the statutory authority of the commission, contradicting the Advisers Act and the Administrative Procedure Act (APA). The proposal fails to justify its necessity and introduces terms that harm advisers, funds, and investors, thereby compromising efficiency, competition, and capital formation. Additionally, the proposal challenges established business practices and mandates costly quarterly disclosures. The commission fails to demonstrate the harm the proposed regulations seek to mitigate, rendering them speculative at best. The regulations also pose retroactivity issues and challenge the functioning of third-party administrators who would need to make significant cost-heavy technological investments to meet the new proposed reporting rules. This, in turn, could lead to increased prices and reduced investor returns. As a consequence, advisers may face increased staffing or outsourcing costs. With potential challenges to compliance, the proposal could lead to serious disruption in administrative services within the fund industry.

Assessment of Corporate Governance and Value Creation in Private Equity Investments (governance)

The text evaluates the involvement and understanding of investors in matters regarding fund management fees, investment risk, transactions with affiliates, leverage, and redemption rights. It discusses how qualified purchasers are assumed to be able to appreciate the risks associated with investments they make. Additionally, the text outlines the roles of corporate governance and disclosure in protecting the investments made by advisers. This includes preinvestment disclosures to private fund investors and governance requirements. The document also highlights the effects of the proposed rules on advisers of smaller and first-time funds, and emphasizes the importance of investor involvement in fund governance or oversight. It also points out the growing role private funds play in providing financing to start-ups and improving corporate governance in more seasoned companies.

The Impact of Regulatory Changes on Innovation and Access to Capital. (innovation)

The Advocacy, Innovation, and Communications (AIC) organization emphasizes the importance of supporting long-term investments to foster job creation, retirement security, innovation and economic growth. Potential regulatory changes pose threats to investors, private fund advisors, their beneficiaries, and the companies they fund, which represent a vital source of innovation and capital formation in the U.S economy. If these changes result in costlier or limited access to private capital, this could negatively affect innovation and capital formation due to the costs associated with public funding alternatives. New proposals, such as prohibiting tax deductions for carried interest clawback, may prove to have limited value to investors considering industry trends towards interim clawback testing or escrow accounts. Such regulations could stem industry innovation and lead to sub-optimal outcomes in contracting. Furthermore, prohibiting preferential redemption rights could increase the cost and affect the structure of future funds in the industry.
