

Investment Management Regulatory Update - February 2009

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In late January, members of Congress introduced two bills that could greatly affect private funds and their managers. Senators Chuck Grassley (R-IA) and Carl Levin (D-MI) proposed “The Hedge Fund Transparency Act of 2009,” which would regulate funds that are currently exempt from most provisions of the Investment Company Act of 1940 (“Investment Company Act”). In the House, Representatives Mike Castle (R-DE) and Mike Capuano (D-MA) introduced “The Hedge Fund Adviser Registration Act of 2009,” which would eliminate the private investment adviser exemption under the Investment Advisers Act of 1940 (“Advisers Act”). Although it is uncertain whether these particular bills will be enacted, their proposals may represent a starting point for greater regulation of private funds. Many members of Congress have expressed concern that there is a lack of governmental oversight over hedge funds, and new regulation of hedge funds and their managers is widely expected to be included in the anticipated overhaul of financial sector regulation. Notably, the scope of both bills would reach beyond hedge funds and their managers to include a wide range of private funds including private equity and venture capital funds and their managers.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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