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U.S. Fifth Circuit Court of Appeals Vacates SEC's Private Fund Adviser Rules

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On June 5, 2024, the U.S. Fifth Circuit Court of Appeals (the "Court") ruled in favor of a coalition of private equity industry stakeholders challenging the Securities and Exchange Commission's (the "SEC") Private Fund Advisers Rules (the "Rules"), **vacating the Rules in their entirety**.¹ The Rules, originally adopted by the SEC in August of 2023, would have established a more prescriptive, rules-based regulatory regime for private fund advisers and significantly increased the regulation of the private funds industry.

In its decision, the Court held that the SEC exceeded its statutory authority in adopting the Rules. Specifically, the Court's opinion focused on sections 211(h) and 206(4) of the Investment Advisers Act of 1940, as amended, the statutes principally relied on by the SEC as rulemaking authority for the Rules' adoption.

In concluding its opinion, the Court stated that "[b]ecause the promulgation of the Rule[s] was unauthorized, no part of it can stand."

A spokesperson for the SEC said it is currently reviewing the decision and will determine its next steps. We will continue to analyze the Court's decision, as well as the ramifications of the vacatur of the Rules, and provide any additional thoughts and updates in the near future.

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¹ A copy of the Court's decision can be found [here](#).

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