

Caitlin Mandel, Basil Godellas, and Elizabeth Ireland Discuss Securities and Exchange Commission Regulations with *Fundfire*

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Winston & Strawn partners Caitlin Mandel, Basil Godellas, and Elizabeth Ireland spoke with *Fundfire* to discuss the Securities and Exchange Commission (SEC) regulations. The SEC has been engaged with legal challenges and setbacks in response to recently adopted rules, including a sweeping private funds rule that was vacated in its entirety last month by the Fifth U.S. Circuit Court of Appeals. The court ruled that the SEC exceeded its statutory authority after a group of private fund trade groups filed a lawsuit challenging the legality of the regulation.

Prior to the recent Supreme Court decisions, many expected the SEC to appeal the Fifth Circuit ruling or rewrite the private funds rule, said Caitlin. “The likelihood they go any of those routes now is less,” she said. “They would have a hard time coming up with a way to rewrite [the private funds rule] under the standard that the Fifth Circuit has set for them.”

The SEC will now most likely “step back from other rules” as well, including the predictive data analytics and safeguarding proposals, added Basil.

The predictive data analytics rule, aimed at addressing conflicts of interest among advisors and broker-dealers using artificial intelligence tools when dealing with clients and in investment decision-making, has received a strong backlash from the industry, with the SEC’s own investor advisory committee arguing that its scope was too broad. Just this month, the Managed Funds Association, along with five other private fund groups, have called on the SEC to scrap its predictive data analytics, cybersecurity, and outsourcing rule proposals in the wake of the Fifth Circuit ruling on private funds.

“You’ve got to believe they’re going to double down and take a look at those rules in light of these rulings to make sure what they adopt will withstand scrutiny,” Basil said.

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