



ILPA Position: Financial CHOICE Act

The Financial CHOICE Act was first introduced in the 114th Congress and incorporates a variety of regulatory rollback measures across the financial services industry. A new version of CHOICE, H.R. 10, was introduced in the 115th Congress. This bill passed through the House Financial Services Committee on a party line vote on May 4, 2017 (34-26).

Sections 858 and 859 of the Financial CHOICE Act amend the Investment Advisers Act of 1940 to eliminate the requirement that investment advisers to private equity funds (GPs) register and report to the Securities & Exchange Commission. Beyond some minor bookkeeping requirements, this would effectively eliminate effective SEC oversight of the industry.

The ILPA opposes the provisions in the Financial CHOICE Act that eliminate SEC registration of private equity funds, thereby reducing the necessary oversight required to protect limited partners and their beneficiaries.

We assert that the SEC registration requirement has significantly improved the investment environment and leveled the playing field in the PE industry, through:

Improved Transparency in Fees & Expenses: Registration and resulting SEC examinations and enforcement under the Advisers Act has enhanced fee and expense disclosures to LPs, and yielded improved compliance by GPs in accordance with their duties as fiduciaries.

Improved Compliance with Limited Partnership Agreements: SEC Registration and oversight has resulted in improved GP compliance with the terms of their Limited Partnership Agreements (LPAs). Often, only through the SEC's enhanced information rights and ability to conduct examinations can it be determined whether GPs are following LPA requirements in terms of disclosures, conflicts of interest, fees and expenses. LPs generally do not have rights to examine the books and records of the GP management company, only the specific fund they invest into.

Improved "Culture of Compliance & Disclosure" at GPs: The SEC registration requirement has encouraged a stronger "compliance and disclosure culture" at GP organizations, resulting in improved investor transparency, and improved voluntary information disclosures to LPs. It has also resulted in more dedicated staff and management of compliance and risks to the adviser and their funds.

Regulator Knowledge of Private Equity Industry: Prior to the registration requirement, the Commission had little access to information about GPs and the private equity industry, beyond those GPs that voluntarily registered. Therefore, the SEC didn't have sufficient information to act against potential fraudulent activity, an enforcement power which they have for all investment advisers, regardless of registration.

It is the ILPA's position that the private equity industry has flourished under the SEC registration requirement. It is critical that regulatory oversight continue for the benefit of limited partners and their beneficiaries which include retirees, teachers, universities, first responders, charitable institutions, insurance policyholders, and others. The ILPA has expressed these concerns to members of both the House of Representatives and the Senate, asking that Sections 858 and 859 be removed from the Financial CHOICE Act legislation.