

Jack-of-all-Reads

A newsletter for multi-hat-wearing C-suite leaders and their key constituents.



Exploring Non-Competes, Consultants, New Marketing Rule Updates, and Investor Base Concentration Risk

Our newsletter, *Jack-of-all-Reads*, shares the latest and greatest insights in a brief read on a monthly basis. Please let us know of any comments or questions – we welcome and appreciate your continued partnership.

Industry Insights:

1. **Away with Non-Competes.** Earlier this month, the [FTC proposed a ban of non-compete clauses](#), citing their various, negative impacts which may affect the labor market and stifle innovation. Firms will be mandated to retroactively remove all non-compete clauses and notify both former and current employees. The comment period deadline is March 10th 2023.
 - o **Word on the Street.** Through conversations with our industry partners, we have observed that notice periods and non-compete agreements in the United States are reportedly becoming longer, as firms move to retain staff. The industry has been utilizing non competes in order to disincentivize employees from leaving for a competitor and maintain control of intellectual property. States, such as California, have already banned the use of non-compete agreements.
2. **Utilization of Consultants** . Compliance consultants are expected to be leveraged more on a go-forward basis, to provide managers with guidance on navigating the current regulatory regime, especially given the amount of proposals and the broader regulatory environment.
 - o **Keeping Count.** Some proposal letters have centered around the excessiveness of rules and proposals in 2022. The SEC brought 760 total enforcement actions in FY 2022, which was a 9 percent increase over FY 2021. For many managers, one area of focus is the cybersecurity rules that were proposed last year and may be implemented in 2023. Due to a greater number of proposals, enforcement actions by the SEC, and increasing complexity, leveraging compliance consultants is of increased importance. Managers consistently referenced the amount of proposals and the broader regulatory environment as the primary contributor in decreasing confidence levels.
3. **Update to the New Marketing Rule: Case Studies.** The SEC followed up on the New Marketing Rule that went into effect on Nov. 4th. The follow-up provided clarity regarding case studies in marketing materials. The SEC acknowledged that case studies are a norm of how managers explain their investment strategies to investors however, they need to ensure that they:
 - o Create and incorporate thoughtful, transparent, and consistent fee and expense assumptions into the case studies.
 - o Keep the same procedures for reporting performance across marketing decks and case studies.
 - o Net performance must be cited within case studies.

Please reach out to your Jefferies contact for more information on any of the topics above.

Spotlight on Content and Events:



Annual State of Our Union: Hedge funds are coming off one of the greatest years of outperformance against broader indices in over a decade. Despite this position of strength, many funds did not receive incentive fees last year, which firms need to sustain themselves across challenging periods, or fuel growth amidst dislocation. Decision makers are now revisiting assumptions, and redefining their organizations for the decade ahead. This is our sixth State of Our Union, and the first that truly reflects a period of RESET, and potentially, renewal. [CLICK HERE to read the full piece on our new website.](#)

iConnections: Members of the Jefferies team will be speaking at the following iConnections panels:



- Tuesday January 31st, 8:55am-9:30am**
Fireside Chat with Richard Handler, Jefferies, CEO of Jefferies, Moderated by Sol Kumin, Co-President of Leucadia Asset Management, Introduced by Leor Shapiro, Jefferies Head of Capital Intelligence
- Tuesday January 31st, 11am-11:30am**
A Fundamental Outlook on the Global Economy, David Zervos, Jefferies Chief Market Strategist
- Tuesday January 31st, 3:25pm-4pm**
Fireside with Colin Lancaster, Schonfeld Strategic Partners: Macro Investing in Turbulent Times, Moderated by Dan Furstenberg, Jefferies Global Head of Fund Distribution, Introduced by Leor Shapiro, Jefferies Head of Capital Intelligence

Client Corner:

Investor Base Diversification. Recent events of single investor redemption triggering a fund collapse has led to groups reviewing how meaningful any one LP commitment is to the comingled fund assets.

- **Mitigating Risk:** When the vast majority of external capital stems from a single large investor, diversification of LP's can be the best risk mitigator.
- **Contact your Jefferies contact to learn about latest capital raising trends, such as SMA's and comingled fund structures.**

Interesting Service Provider Reads: Highlighting Topical Content From Industry Leaders

- AIMA** – [AIMA Hedge Fund Confidence Index Q4 2022](#)
- Akin Gump** – [SEC Publishes New Guidance on Advertising Gross and Net Performance](#)
- CohnReznick** – [Proposed Regulatory Changes Increase Board Responsibility for Cybersecurity Programs](#)
- IQEQ** – [Fund Domiciliation Report](#)
- Kleinberg Kaplan** – [To Compete or Not To Compete – the FTC's New View on Unfair Competition](#)

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