

**D.C. CIRCUIT DELAYS EFFECTIVENESS OF ITS DECISION IN THE
HEDGE FUND ADVISER REGISTRATION CASE**

The U.S. Court of Appeals for the District of Columbia Circuit, which last week issued an opinion invalidating the Securities and Exchange Commission's controversial hedge fund adviser registration rule, has, on its own motion, delayed the effectiveness of that decision. This relatively routine procedural action by the Court gives the SEC an opportunity to chart a course of action in response to the decision.

In its decision in *Goldstein v. U.S. Securities and Exchange Commission*, the Court vacated and remanded the rule to the SEC. The Court subsequently issued a second order postponing the vacating of the rule. The rule, therefore, remains in effect until the SEC's time to file a petition to have the Court rehear the case expires, or, if the SEC petitions the court to rehear the case, until seven days after the disposition of any timely petition for rehearing. If the SEC seeks a rehearing and the Court agrees to rehear the case, the final disposition could take many months. The SEC has until August 7, 2006 to petition the Court to rehear the case.

The principal practical consequence of the Court's postponing the effectiveness of the *Goldstein* decision is to preclude registration withdrawals by hedge fund advisers whose Advisers Act registration would no longer be required. It remains unclear whether the SEC staff, pending the SEC's reconsideration of these matters, will continue to inspect registered advisers that would otherwise be entitled to withdraw their registrations under *Goldstein*.

We will keep you apprised of any further developments in the *Goldstein* case.

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