

# SEWARD & KISSEL LLP

## LATEST DISCLOSURE TRENDS IN THE FORM ADV BROCHURE

### September 2025

Seward & Kissel has advised the investment management industry for more than 75 years and we continue to be committed to understanding the dynamics of the investment fund marketplace, while bringing the latest industry color to our clients and friends. Accordingly, each year Seward & Kissel produces various studies, reports and analyses of the major trends that impact the industry and our clients.

Given the continuing institutionalization of the industry, this year we decided to undertake an analysis of the Form ADV Part 2A (the “Brochure”) filings of some of the largest SEC-registered investment advisers (the “Advisers”) whose businesses focus primarily on hedge funds, institutional separately managed accounts, and/or various closed-end funds (e.g., private credit, private equity, growth equity, venture capital, crossover, hybrid and evergreen funds). We focused on the Brochure as opposed to the Form ADV Part 1, because Part 1 is primarily a check-the-box type document whereas the Brochure is a detailed text disclosure document covering major aspects of investment adviser operations, such as fees & compensation, clients, strategies and risks. In conducting our analysis, we reviewed the Brochures of a large, randomly selected sampling of the top 200 Advisers (based on regulatory assets under management) in order to ascertain the major changes in their current Brochures as compared to their previously filed ones.

Based upon our analysis, we were able to identify four principal disclosure trends, discussed in further detail below, many of which appear to have been influenced by an evolving technological, global macro, regulatory and capital raising landscape:

- I. Disclosure of novel management-related matters
- II. Expanded fund expense disclosures
- III. Increased risk factors and conflicts of interest disclosure for new or heightened areas of concern
- IV. Expansion into new investment strategies and structures

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## **I. Disclosure of Novel Management-Related Matters:**

- Advisers provided greater disclosure around affiliated services offered to their clients, including for collateral or loan management, investment portfolio monitoring, administrative/accounting and due diligence services.
- Many Advisers added text to their Brochures relating to the use of artificial intelligence and machine learning.
- A number of closed-end fund (e.g., private equity, private credit, growth equity, etc.) Advisers disclosed for the first time an advisory committee consisting of several limited partner representatives who had the ability to act on behalf of all investors with respect to reviewing and waiving compliance with certain provisions of applicable fund governing documents, addressing conflicts of interest, and providing certain approvals and consents.
- For some of the more mature Advisers, there was discussion about the establishment of family offices.
- More extensive disclosure was added to account for the relationships that key Adviser personnel may have with outside vendors.
- A number of Advisers added greater disclosure around their ability to agree to bespoke terms with clients, which may have been influenced by side letter-related issues raised by the now-vacated Private Fund Adviser Rules.

**S&K Takeaway:** There is typically a direct correlation between operational complexity and Adviser growth. When this is further coupled with rapid changes dictated by competition and regulatory developments, it is not surprising that Advisers are enhancing disclosures demonstrating the evolution of their businesses.

## **II. Expanded Fund Expense Disclosures:**

- Technology-related expenses were a driving force in fund expense disclosure, including expenses related to: the provision of electronic access to fund reports and information, and information system costs (including acquisition, development and maintenance).
- In some cases, additional fund expense disclosure was added for business development activities (including certain client-related travel) and the hosting of investor annual meetings.

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- Advisers expanded the description of expenses associated with background investigations of industries.
- Some Advisers included as fund expenses various more recently seen types of insurance such as cyber insurance and crime (e.g., kidnap) insurance.
- As various types of pass-through expense models have become increasingly more common among many Advisers, fund expense disclosure providing greater detail (in accordance with various SEC pronouncements in the area) was added in those Brochures.
- Some closed-end fund Advisers added as a fund expense the costs associated with conforming to investor-requested reporting templates such as the Institutional Limited Partners Association model.

**S&K Takeaway:** Fund operating costs continue to increase as new expenses arise in various areas. In order to allow for the passing on of these line items onto clients and avoid SEC scrutiny, additional disclosure has been added.

## III. Increased Risk Factors and Conflicts of Interest Disclosure for New or Heightened Areas of Concern:

### Risk Factors

- There was overall a greater level of disclosure relating to relating to digital asset regulation, infrastructure, custody and fraud.
- Risk disclosures were added in a number of Brochures to cover the implications of machine learning and artificial intelligence, as well as the possible consequences if third parties relied upon by the Adviser were to use it.
- New regulatory obligations and judicial decisions, as well as the uncertainty surrounding various proposed U.S. and non-U.S. legislation, led to additional risk factors, with many Advisers providing great detail specifically identifying the regulatory and judicial items of concern. One area of paramount interest was the ever-evolving state of play for non-compete provisions, and how that could impact key staffing at Advisers.
- Many Advisers added or enhanced disclosure relating to geopolitical risk and how it could affect the Adviser and its clients. In particular, some items specifically identified included the wars in Ukraine and Gaza, as well as the new Trump Presidency and its policies, including mandated tariffs and negotiated trade deals.

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- A number of more well-known, “brand name” Advisers added a new risk factor related to the reputational impacts of social media, publicity and the spread of information and its potential effects on the Adviser and its business.
- Risk language was added around the possible impact of natural disasters and health emergencies. Relating to this, a number of Brochures also added specific disclosure around climate change.
- Some Advisers addressed how “work from home” or hybrid work arrangements could impact business operations.
- A number of private credit Advisers highlighted the potential for new shadow banking regulations and how it could change their businesses.

## Conflicts of Interest

- Where Advisers offered affiliated services, there was also often disclosure relating to potential conflicts of interest that could arise, additional fees (if any) that might be charged, as well as whether there were any fee offsets to be provided to investors.
- New conflicts language was added when Advisers went into new, potentially conflicting, business lines, including CLOs.
- Advisers that disclosed new family offices typically discussed the potential conflicts of interest associated therewith as it relates to the Adviser’s clients.

**S&K Takeaway:** It appears that a quickly-developing and highly uncertain global macro and regulatory environment as well as rapid technological innovations are having a significant impact on the disclosures that Advisers are adding to their Brochures.

## IV. Expansion into New Investment Strategies and Structures:

### New Investment Strategies

- There was a great amount of detail added by Advisers focused on investment in cryptocurrencies, digital assets and related data centers. Relatedly, private equity Advisers focused on digital infrastructure and other infrastructure opportunities (including logistics and self-storage).
- Advisers in the credit space disclosed new forays into the CMBS and CLO spaces.
- Various Advisers added disclosure about the establishment of different types of oppor-

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tunity funds, with some focused on specific trades, countries, sectors, asset classes or products.

### New Investment Structures

- There appears to have been a significant uptick in Advisers managing separately managed accounts for the first time. In some cases, in lieu of separately managed accounts, Advisers disclosed new single investor funds for certain client relationships.
- Advisers included language around the ability to establish co-investment or special purpose vehicles to invest alongside the flagship fund(s) in one or more investments.
- In the case of various closed-end Advisers offering new liquidity options for their clients, language was added relating to the establishment of continuation funds or the adoption of permitted secondary transfer policies by investors.
- Advisers with multiple product offerings established feeder funds allowing for easier one-stop access by the investor base to multiple Adviser products, in which case there was also disclosure around how and where fees were charged.
- Advisers sought to take advantage of multiple existing investment products in order to scale up quickly by allowing for the temporary warehousing of investments, while others added the ability to pool assets of many products in order to obtain better leverage.
- Advisers seeking to provide public/private investment flexibility added language about crossover or hybrid offerings.

**S&K Takeaway:** In an overall challenging capital raising environment, even large Advisers are looking to new investments and structures to attract and/or retain investors. This has resulted in greater flexibility in structures being offered as well as investment ideas pursued.

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If you have additional input that you would like to share with us, or have any questions, please contact your primary attorney in Seward & Kissel's [Investment Management Group](#).

**Recognitions:**

The Investment Management practice and partners have been widely recognized by industry organizations for our representation of investment managers, including but not limited to recognition by the following organizations:



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