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Guide to Insuring Fund Liability Risks for Venture Capital and Private Equity Firms

Key Considerations in Today's Litigation
and Regulatory Environment

2025 Edition





Table of Contents

Introduction	3
Market Outlook H2 2025	4
GPL Coverage Update	4
Regulatory and Litigation Risk Update	6

Introduction

Woodruff Sawyer has been a leader in the fund-level General Partnership Liability (GPL) space since the creation of this insurance product over 30 years ago. In today's environment, it's essential that venture capital, private equity, and alternative asset managers maintain a comprehensive insurance program to protect general partners, directors, and officers from litigation, regulatory scrutiny, and other types of losses. Given our expertise in this space, Woodruff Sawyer's Private Equity and Venture Capital group created this annual *Guide* to help asset managers understand the GPL insurance landscape.

This *Guide* is not a comprehensive list; exact coverage needs depend on the risk profile of each individual firm. Coverage also can vary significantly depending on the broker and insurer partners chosen to transfer the GPL risk. For this reason, we always recommend working with an experienced broker with specific expertise in the GPL space. In most cases, an experienced broker will have negotiated manuscript coverage forms or specific amendatory endorsements that enhance coverage above and beyond the "basic" or "core" coverages. The best brokers will also have their coverage forms vetted and reviewed by outside counsel.



One key area to consider when choosing a broker partner in the GPL space is historical claims experience. Woodruff Sawyer has been tracking GPL claims for over 30 years, and our database of claims scenarios is extensive. After working on over 2,000 claims for financial institutions and asset managers, we have built a claims management platform that helps clients close claims with greater certainty, faster outcomes, and greater efficiencies.

The first section of this *Guide* provides an update on the GPL insurance market. The second section provides an update on key coverage developments in the GPL ecosystem. The third section discusses the regulatory and litigation risk environment for asset managers in 2025.

Market Outlook H2 2025

In summer 2025, GPL pricing is at a crossroads. Venture capital and private equity claims frequency has increased in recent years, but because of high overall market capacity, prices are either remaining steady or still trending slightly lower. Insurers are also looking at retentions as a way to mitigate increasing claims frequency. We are no longer in a “soft market,” but some clients are still seeing moderate premium decreases on primary and excess layers of coverage.

GPL Coverage Update



In last year’s *Guide*, we explained how GPL insurance works, walked through the key coverage modules in a GPL policy, and detailed some representative examples of claims that may be covered under the policy.

This year, we take a closer look at two core issues that matter to our clients in this space: (1) strategic considerations surrounding pricing and expanded policy terms, and (2) formal and informal investigation coverage.

Core Issue #1: Pricing vs. Coverage Considerations

Insurers are experiencing an increase in claims, prompting higher pricing or retentions to offset rising costs. While pricing declines are slowing and carriers are under pressure, it is still a good time to push the envelope on coverage enhancements. Insurance is a relationship-driven business, so if you’re looking at a minor difference in premium between an incumbent carrier and a non-incumbent carrier, most brokers will recommend sticking with the incumbent carrier.

How can brokers keep incumbent carriers honest? Coverage, coverage, coverage. Policy negotiations are a “give and take.” If a carrier is going to push back on premium or try to attach higher retentions, a good broker and steward should get something of value in return (i.e., better coverage). It’s critical that you work with the right broker to get the full value for your premium spend.

Core Issue #2: Formal and Informal Investigation Coverage

Over the past several years, coverage has increasingly become available in the GPL marketplace for formal—and, in some instances, informal—government investigations. This trend has coincided with increased claims activity for many carriers in the GPL space, often arising from government investigations. As a result, insurance carriers are facing dueling pressures: Continue to win business by providing competitive pricing and coverage terms while underwriting good risks that do not drive continued heightened claims activity.

Many observers expect that technical investigations into asset managers will trend downward going forward, and that regulatory matters will focus more on identifying and penalizing fraud. If true, however, these trends will take years to show up in the data. In the meantime, carriers will continue to try to strike a balance between providing market-competitive terms and protecting their own balance sheets from losses.



The rubber meets the road when your insurance broker is negotiating your GPL policy. Policy language for formal and informal investigations varies significantly between insurance carriers.



Small differences in wording can mean the difference between coverage and needing to go out of pocket for your expensive defense lawyer's fees.

Complicating this situation, many brokers and insurance carriers have an incomplete understanding of the nuances of different government investigation processes and procedures. To take advantage of the current market, asset managers need to work with an insurance advisor who can clearly and accurately explain investigations coverage—and who can negotiate fiercely and effectively at the claims stage, when carriers will be looking for opportunities to deny coverage if possible.

Regulatory and Litigation Risk Update

A Brave New Regulatory World

In last year's version of this *Guide*, we wrote: "We may wake up in a brave new regulatory world in January 2025—or just more of the same." Halfway into 2025, it's safe to say we find ourselves facing a new regulatory landscape.

Anyone who confidently predicts the future in today's environment will turn out to be either wrong or lucky. However, we expect both regulatory and technological uncertainty to continue in the near term. This uncertainty continues to create headaches for compliance teams trying to plan for the future, as well as downside risk for portfolio companies unequipped to navigate turbulent markets.



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In uncertain times, well-crafted and right-sized risk management solutions—including GPL insurance—will help to protect your firm and partners from downside risks.

New SEC Captains at the Helm

The new SEC Chair, Paul Atkins, was confirmed in May. As of the time of this writing, he has yet to name new leaders for the Division of Enforcement and Examinations, among others. Although it is still early in Chair Atkins' term, many expect that this SEC will have a more constructive and less enforcement-focused approach than past administrations, including on asset manager regulation.

These processes, however, will take time. And, when it comes to the meat-and-potatoes substance of the SEC's asset management regulatory docket—e.g., Advisers Act violations focused on fees, conflicts, and disclosures—it is not safe to assume that the staff will do a 180.

For private fund managers, the potential for retail investors to have increased access to alternative investments creates great opportunity—and significant risk. While managers may have welcome breathing room, many of the same compliance risk areas will remain. Also, keep in mind that in a polarized environment, we could be in for more whiplash in a few short years.

BSA/AML and Reg S-P Compliance

Perhaps the most significant recent new compliance responsibilities for registered investment advisers come from new Bank Secrecy Act/Anti-Money Laundering (BSA/AML) requirements (passed by FinCEN and overseen by the SEC) and Regulation S-P amendments. Taken together, these rules will create significant new compliance challenges for asset managers. But when will compliance be required, and will any changes be made to ease the compliance burden?

On Reg S-P, the SEC's Acting EXAMS Director recently acknowledged the existence of requests to extend the compliance date but stressed the importance of the amendments and said that "registrants shouldn't be surprised" if the rule "is the subject of a thematic initiative" in the future. Put another way: the Reg S-P amendments seem to be here to stay.



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On the AML and Customer Identification Program (CIP) rules, interest groups have requested that FinCEN and the SEC reopen the comment period to allow for additional input from industry. At the time of this writing, it remains to be seen whether this request and/or requests for additional time to come into compliance will be granted.

Economic Uncertainty and Portfolio Company Risk

In 2025, the economic outlook remains complex for businesses of all sizes. Portfolio company problems—liquidity issues, busted growth stories, accounting improprieties—are a key source of litigation and regulatory enforcement risk for asset managers.

When companies fundraise and scale very quickly, portfolio-level insurance does not always keep pace with the increasing risks that come along with rapid growth. The good news is that, if portfolio company insurance proves inadequate, investors should have another layer of protection in the form of outside directorship coverage in the GPL policy. Talk to your insurance advisor to make sure this coverage is right-sized for your risk; it could be the only thing standing between firm (or personal) balance sheets and plaintiffs.

Disclaimer: The information contained herein is offered as insurance industry guidance and provided as an overview of current market risks and available coverages and is intended for discussion purposes only. This publication is not intended to offer financial, tax, legal or client-specific insurance or risk management advice. General insurance descriptions contained herein do not include complete insurance policy definitions, terms, and/or conditions, and should not be relied on for coverage interpretation. Actual insurance policies must always be consulted for full coverage details and analysis.

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Additional Resources



Financial Services Notebook

Regulatory Enforcement Trends, Litigation
Developments, Cybersecurity and Privacy Issues



M&A Notebook

Private Equity and M&A, Reps and Warranties Insurance,
Litigation Trends



SPAC Notebook

IPOs, Transactional Insurance, SPACs, de-SPACs,
Mergers & Acquisitions



D&O Notebook

D&O Insurance, Corporate Governance, IPOs, Board Issues

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