

[Blogs](#)

June 30, 2016

SEC Charges Private Fund Administrator with Gatekeeping Failures



The Securities and Exchange Commission (SEC) recently announced an administrative settlement with Apex Fund Services (US) Inc., a firm providing administrative services to private funds, based on its alleged failure to heed red flags and correct faulty accounting by two private equity managers.

The SEC alleged that, in carrying out its contractual fund administration functions, Apex missed or ignored clear indications of fraud perpetrated by two private fund managers, making Apex a "cause" of that fraud under Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder. In charging Apex in connection with ClearPath and EquityStar's violations, the SEC is highlighting its expectation that fund administrators live up to their "gatekeeper" responsibilities and take affirmative action to ensure that fund records provide accurate information about the value and existence of fund assets. In this [update](#), we offer background on the SEC's action and consider the resulting warning it sends to all gatekeepers: the SEC will use negligence-based securities laws to hold service providers responsible, especially where indications of fraud are ignored. [READ THE FULL UPDATE](#)

Authors

Explore more in

[White Collar & Investigations](#)