



Institutional Investor Services

Reinhart Institutional Investor Services' (RIIS) mission is to be the foremost advocate and single-stop provider for the legal needs of institutional investors worldwide. This, along with our proactive and pragmatic approach, is why the clients we represent make up more than 30 percent of the 50 largest North American and European public pension plans. Our extensive experience allows us to efficiently and effectively provide investment, fiduciary, corporate governance, plan governance, litigation and tax legal services to public pension plans and other institutional investors across the United States and internationally. We are unique among our peers for many reasons, including the following:

- We understand our clients' unique needs – better. This is because our team of attorneys have been in the clients' shoes. Our insider's perspective provides our clients with value other firms cannot provide. RIIS was co-founded by Keith Johnson (now retired; who was former general counsel at the State of Wisconsin Investment Board – \$104 billion assets). At the same time, some of our other attorneys (e.g., Jussi Snellman) began their careers with top national law firms that customarily represent general partners (GP), so we have firsthand experience of how the "other side" thinks and operates. We also have the extensive experience needed by our clients, such as guiding pension investors in structuring and negotiating private equity, hedge fund and other alternative investments. In addition, we also regularly counsel clients on securities law compliance and with accounting, tax, ESG and corporate governance matters.
- We serve all needs of institutional investor. Beyond investments, we serve all the pension needs of our clients, including fiduciary counsel and compliance, tax (including tremendous expertise on CRS/FATCA compliance and tax reclaims from various foreign jurisdictions), securities litigation evaluation (where we have, among other things, reduced plaintiff's attorney fees by millions on behalf of clients), and corporate governance (where we chair numerous investor groups and have authored trustee guidebooks and other significant publications related to ESG and related topics).
- Unparalleled experience in handling complex transactions. While many of our clients have a pool of law firms, we consistently get the call for unusual or particularly complex matters. Examples include:
 - Custody Agreement and Securities Lending Agreement negotiations;
 - Repurchase Agreements;
 - Public-Private Investment Programs;
 - CMBS investments, including securitized vehicles and including B-Piece investments that raise unique liquidity issues revolving around government-mandated minimum retention periods;
 - Protection of governmental investors' UBTI exclusions in light of various tax law proposals (including the 2017 tax laws, as well as previous ones); and
 - FIRPTA provisions related to foreign pension investors.
- We align ourselves completely with investors. We provide conflict-free/investor-only representation and do not represent clients whose interests would conflict. We do not assist GPs with fundraising or fund formation, and thus we never "hold back" in attempts to make a favorable impression on the investment manager in hopes of



someday being their counsel. In addition, by cross-pollinating investor terms across our entire client base, RIIS provides all clients the benefit of our expertise.

- More clients rely on us each year. We represent investors on hundreds of transactions per year, typically increasing by 10 percent to 20 percent per annum. Our depth and breadth of experience allows us to provide the advice needed by our clients and to handle their ever-increasing number of investment transactions. This is a tremendous testament to our experience and unwavering dedication to understanding our clients' goals and to provide excellent client service. The below summaries provide more detailed information and examples of the services we provide.

Investment Services

RIIS provides legal services to more than 30 percent of the 50 largest North American and European public pension plans. We also serve many smaller clients, including municipalities, universities, foundations, insurers and smaller states. Annually, we advise clients (investors only, not general partners [GP]) on We represent investors on hundreds of transactions per year, typically increasing by 10 percent to 20 percent per annum. Typical investment size for our clients ranges from \$10 million to \$150 million, with \$200 million to \$500 million investments occurring with some frequency, and occasionally even larger investments.

RIIS regularly provides investment-related legal services to institutional investor clients in the following areas:

- Commingled fund investments of various strategies (e.g., private equity, hedge funds, venture capital, real estate, infrastructure, credit)
- Co-investments (direct and via partnerships)
- Single investor / fund-of-one investments
- Agreements with banks (Custody, Securities Lending, ISDA), Repurchase Agreements
- Real Asset transactions
- Workouts
- Investment-related tax matters (reclaim of U.S. and foreign withholding, UBTI)
- Securities matters (e.g., advising on governmental filings)jurisdictionally: We advise on investments structured in the United States, as well as many foreign jurisdictions (e.g., the Cayman Islands, Luxembourg, the UK, Ireland and Canada)

RIIS Role. Our role in each investment is to review and analyze the legal terms, conduct other legal diligence, negotiate improvements to the legal terms and protections for the investor, and to provide robust documentation of the foregoing. In almost every instance we negotiated meaningful side letter protections, and often negotiated changes to the partnership agreements and other governing documents. In addition, unless requested by the client, always assist with completion of subscription materials and investor questionnaires.

Over the life of the investment, we advise clients on amendments, MFN elections, dissolution-related issues and (infrequently) on workouts and rescue capital. Workouts have included (a) funds of funds that committed to pay



out more than they received from investors; (b) leveraged funds that suffered margin calls and sought to avoid liquidating at distressed prices; (c) funds with criminal activity by management; and (d) GP removal due to fund overpaying itself carried interest and other accounting discrepancies.

Core RIIS Benefits. We bring our clients many practical advantages on investments, including:

- Tremendous capacity and ability to work with short time frames;
- Unmatched transactional volume and expertise;
- Cross pollination of investor-friendly terms to all clients;
- Reasonable cost, including fixed fees;
- Market information;
- Best negotiation strategies; and
- Clear documentation.

Additional Information. Please download a [sample RFP](#) that includes sample documents and an explanation of the many types of benefits and value-adds we provide institutional investors.

Disclaimer: RIIS private market investment services are limited to review of legal issues related to the investment. The merits, risks, valuations, performance, fees, costs, taxes, structure, likelihood of favorable outcome and other financial and business-related issues (collectively, “Non-Legal Matters”) should be evaluated separately by the client (e.g., by investment staff and/or by a third-party financial consultant). Any opinion or advice rendered by RIIS is solely for the purpose of assisting the client in evaluating legal terms of the proposed investment documents and does not constitute a recommendation of the investment or guidance related to Non-Legal Matters.

Fiduciary Services and Pension Plans

RIIS’ fiduciary counsel services team provides a wide range of services necessary to help any public pension fund fiduciary meet their fiduciary responsibilities. We represent dozens of ERISA and public pension fiduciaries at pension plans of all sizes, and publish and speak extensively on fiduciary duty. Our fiduciary counsel services include the following:

Fiduciary Reviews. We assist clients with the review of fiduciary issues relating to investments, prohibited transactions/ethics codes, delegation and monitoring of duties, plan administration and compliance. We have extensive experience in performing fiduciary reviews of public pension plans. We work closely with public pension plan fiduciaries to ensure that they take the steps necessary to make “procedurally prudent” decisions with respect to employee benefit plans.

Fiduciary Training. We provide a fiduciary training program for public pension plans. We have assisted general counsel on several training projects, assisted fiduciaries in understanding responsibilities inherent in being a fiduciary of a public pension plan, and examined procedures and possible actions for the fiduciaries to reduce or



avoid risk and reviewing administrative procedures and policies.

Fiduciary Advice. Our strength is the level of experience we bring to providing fiduciary advice, regularly providing clients legal opinions and advice on specific issues relating to fiduciary duties. Issues public plan fiduciaries regularly face range from interpreting limits on investment authority to enforcement of funding obligations or resolution of trustee conflicts of interest and ethics issues. We regularly publish articles and provide speeches on fiduciary duty topics to the International Foundation of Employee Benefit Plans.

Additional Information. Please download a [sample RFP](#) that includes a sample fiduciary training presentation, an IISD report authored by our attorneys addressing evolving trends in fiduciary duties, and articles regarding fiduciary duties regarding investment matters and intergenerational equity.

Related Articles:

- [Evolving Fiduciary Duty of Foundations and Endowments](#)
- [Application of Fiduciary Duty to Sustainable Investment Practices](#)
- [Fiduciary Duty Overview for Endowments and Foundations: Integrating Nonprofit Mission Goals into Investment Practices](#)
- [Tips for Charitable Organizations to Consider When Hiring Consultants](#)

Governance

We bring a unique body of experience in developing, evaluating and implementing corporate governance policy and strategy with companies, boards, investors, regulators and lawmakers. This insight gives our clients a truly informed and holistic perspective on the issues facing institutional investors today.

Areas in which our attorneys have added value include:

- No Action Letter challenges to shareholder resolutions before the Securities and Exchange Commission.
- Development of customized proxy voting guidelines and review of investment manager proxy voting practices.
- Policies, guidelines and procedures relating to placement agents and fees, ethics and compliance matters.
- Audit of compliance with laws and other requirements, and guidance regarding best practices.
- Make presentations to the board or staff on corporate governance (CG) matters.
- Advise on development of a CG program tailored to client goals.
- Review or assist in developing and updating proxy voting guidelines and manager contracts.
- Advise on proxy voting involving specific issues and review investment manager proxy voting practices for compliance with fiduciary review.
- Prepare materials on CG for a client's use on its website or in other publications.
- Help develop an annual CG plan with focus issues or client portfolio companies.
- Assist in implementing the annual CG plan.
- Draft letters to, and other communications with, companies on CG issues.

- Prepare shareholder resolutions and defend them from no action letter challenges.
- Flag current CG issues and events for client consideration.
- Write comment letters on public policy issues to lawmakers and regulators.
- Organize company conference calls or meetings to discuss CG issues.
- Prepare press releases or public statements as requested.

Independent Securities Litigation Review

Our RIIS team independently reviews securities litigation, assisting institutional investors in determining how to most effectively manage their rights to recover money through securities claims. We focus on adding value by identifying cases and litigation strategies that improve client recoveries, lower costs and deter future corporate fraud. Our clients appreciate our unbiased evaluation of securities fraud claims to help pension funds determine whether to join a class or pursue remedies independently.

Most institutional investors adopt a securities litigation policy to guide their approach and identify criteria to be applied in evaluating specific cases. We frequently assist institutional investors in developing their policies and in evaluating proposals from litigation counsel. Our goal is to help clients identify activities that add to the bottom line and to avoid actions that are unlikely to be cost-effective.

We regularly provide counsel on the following securities litigation matters:

- Educating fiduciaries on class actions and corporate fraud litigation.
- Providing assistance in developing a litigation policy and claim recovery procedure.
- Conducting outside manager and custodian contract reviews to determine consistency with the client's policy for management and filing of claims.
- Reviewing class action claim filing procedures of the client's custodian (or other claims service provider) for reliability.
- Evaluating client claims and making recommendations in specific cases, including whether to file a separate case, seek lead plaintiff appointment, wait and file a settlement claim or actively monitor a class action.
- Seeking other investors to support client involvement in specific cases.
- Assisting in the selection and retention of litigation or lead counsel in securities cases.
- Supervising lead or litigation counsel where the client becomes an active litigant.
- Monitoring and reporting on passively managed class actions.
- Reviewing case settlements and attorneys' fee requests and filing objections when appropriate.
- Advising on when to join in filing amicus briefs or supporting declarations in securities cases.
- Providing other custom services developed with the client to reduce litigation costs, increase recoveries, improve corporate governance, deter future losses or meet specific program needs.

Tax Services

We have extensive experience representing public and private retirement plans on all aspects of tax compliance, including qualification issues and investment-related tax questions. We have guided clients through compliance with current and new tax laws, timely discovery and correction of errors and successful negotiation with the IRS. For example, we have advised public pension plans worldwide to resolve tax issues relevant to public funds, such as:

- Preparing and reviewing proposed plan amendments for tax consequences and compliance with the Internal Revenue Code and state laws.
- Providing comments to proposed laws and regulations regarding tax implications.
- Advising on continued tax qualification, including correction of errors through the IRS's correction programs.
- Assisting clients, including public retirement plans, in obtaining private letter rulings, determination letters and other tax-related rulings from the IRS.
- Negotiating with the IRS on behalf of clients in audits and to obtain compliance statements as part of the IRS's Voluntary Correction Program (VCP).
- Providing guidance on tax implications of distributions, including reporting requirements.
- Complying with Common Reporting Standard (CRS), FATCA and UK FATCA reporting and disclosure obligations.
- Structuring investments to maximize use of unique tax characteristics of public funds as governmental entities.
- Advising non-U.S. clients with respect to tax issues that are unique to non-U.S. investors, such as mitigating the risk that the client would incur commercial activity income under Code section 892 or income effectively connected with a U.S. trade or business.
- Ensuring the most favorable tax exemptions under local law and tax treaties for foreign investments are being used.
- Facilitating reclaims of withheld taxes and establishing automatic procedures for custodians or investment managers to remove administrative burdens from pension plan staff.
- Providing tax opinions and guidance when needed.
- Obtaining no action letters from the IRS and providing comments to proposed laws and regulations.
- Issuing monthly newsletters and other publications to keep clients current with tax law changes.

Additional Examples of Tax Services

- We advised a large public pension fund client in a comprehensive review of private market fund holdings on steps to reduce foreign tax exposures and recover tax payments to foreign tax authorities.
- We reviewed international treaties and tax laws regarding foreign tax treatment of public pension funds and worked with a client's custodian in structuring ways to eliminate or reduce the public fund's exposure to foreign tax payments.
- We have advised public pension plans on the taxability of single-member LLCs, and has obtained favorable precedent from the IRS confirming that such entities should not be taxed as per-se corporations.
- We have drafted hundreds of plan provisions and board rules for government bodies that were required for



tax qualification. This process requires us to work closely with plan officials to identify plan procedures and fit those procedures to tax requirements, and to explain and argue various provisions to IRS agents.

- We have advised several clients on the exemption contained in section 115 of the Internal Revenue Code. Our clients have taken the position that they are not subject to unrelated business taxable income (UBTI). This position can save public funds millions of dollars in earnings that are otherwise lost through use of unnecessary tax avoidance structures. We take the position that public pension funds that are exempt under Code section 115 do not owe tax on UBTI and need not structure investments to avoid it.
- We regularly assist clients in navigating and reviewing IRS audit requests, preparing responses to the IRS and ultimately negotiating with the IRS a compliance statement and sanction, if applicable. We completed an IRS audit for a government plan that addressed numerous types of qualification failures and assisted our client in communicating with the IRS so an on-site visit was not necessary. We also successfully negotiated a 50 percent reduction in the audit sanction initially proposed by the IRS.
- We negotiated with the Social Security Administration (SSA) for a favorable determination that certain employees were properly excluded from social security tax withholding for the prior 50 years. The SSA and the IRS had initially taken the position that individuals were improperly excluded. This position could have resulted in payment of years' worth of employer and employee withholding taxes, interest and penalties. The qualification of the governmental employer's pension plan was also potentially at risk. Our efforts allowed the governmental plan sponsor and employees to avoid the back tax payments and protected the plan's qualified status.
- We file numerous VCP applications on behalf of our retirement plan clients each year. As part of a recent VCP application, we negotiated a reduced filing fee. As a large retirement plan, our client qualified for the highest category for VCP filing fees. However, the client was a governmental retirement plan and a large filing fee, in addition to costs to correct the reported errors, would have created a significant financial strain. The reduced fee made more funds available for correction and plan administration.
- We have prepared many private letter ruling requests and have been successful in obtaining positive rulings on various tax issues.
- We have further provided guidance or opinions on the tax consequences of specific client situations.

Additional Information. Please download a [sample RFP](#) that includes more examples of the tax expertise that we provide.

Resources

- Sample Investment Services RFP
https://www.reinhartlaw.com/uploads/documents/Reinhart_InvestmentServicesRFPsample_1.pdf
- Sample Tax Services RFP
https://www.reinhartlaw.com/uploads/documents/Reinhart_TaxServicesRFPsample_2.pdf
- Sample Fiduciary Services RFP

https://www.reinhartlaw.com/uploads/documents/Reinhart_FiduciaryServicesRFPsample_3.pdf

- **Cybersecurity Legal Terms for Investment Transactions**
<https://www.reinhartlaw.com/uploads/documents/Cybersecurity-Legal-Terms-for-Investment-Transactions.pdf>
- **Negotiating Repo and Reverse Repo Agreements**
<https://www.reinhartlaw.com/uploads/documents/Reinhart-Repo-Practice.pdf>
- **Institutional Investor Services: Presentation Slides**
<https://www.reinhartlaw.com/uploads/documents/RIIS-Presentation-Slides.pdf>
- **RIIS Comment Letter to SEC Regarding Clawbacks**
<https://www.reinhartlaw.com/uploads/documents/Sample-SEC-Comment-Submission-Letter.pdf>
- **U.S. Investment Considerations for Foreign Investors**
<https://www.reinhartlaw.com/uploads/documents/U.S.-Investment-Considerations-for-Foreign-Investors.pdf>

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