

Business Development Companies

Business-focused insights for BDCs



Whether you are a publicly traded or non-traded business development company (BDC) seeking counsel in regards to

- formation, growth, financing, and capital raising
- operations, public reporting, regulatory compliance, and exemptive relief
- portfolio company acquisition and disposition

our team of experienced attorneys is here to help.

One-stop services for business development companies

- Growth – help achieve your growth goals through formation transactions, follow-on offerings, financings, and debt and equity capital raises
- Portfolio Transactions – execute portfolio company transactions, joint ventures, and strategic investments
- Strategic Opportunities – establishment and expansion of credit facilities, formation and licensing of SBIC subsidiaries, and interval funds and alternative fund products
- Governance and Compliance – maintain proper corporate governance and ensure compliance with a BDCs’ regulatory schemes, including under the Securities Act of 1933, the Securities Exchange Act of 1934, Investment Company Act of 1940, Investment Advisers Act of 1940, IRS treatment of regulated investment companies (RICs), NYSE and Nasdaq rules, FINRA, NASAA, and industry standards

Experienced team provides practical, business-oriented insights

- Hands on market experience and broad industry knowledge of the issues and challenges specific to BDCs
- Partner level involvement and industry relationships with regulators, investment bankers, institutional investors, and other key market participants and service providers

Related Practice Areas

Banking & Financial Services

Broker Dealers & Investment Management
Litigation

Commercial & Syndicated Lending

Corporate & Securities

Corporate Governance

E-Discovery - Encompass

E-Discovery & Information Governance

Emerging Growth & Venture Capital

Executive Compensation, ERISA, Employee Benefits

General Counsel Services

Investment Management

Litigation

Mergers & Acquisitions

Private Equity

Public Company Compliance & Counseling

Securities & Enforcement

Securities Offerings

Tax

- Team includes a former SEC attorney who maintains relationships with the SEC staff in areas of critical importance to BDCs
- Supported by Nelson Mullins' colleagues experienced in a range of legal disciplines, including tax, private M&A, employment and benefits, intellectual property, real estate, and debt financing

Broad experience working with business development companies and related market participants

- Publicly traded and non-traded BDCs
- Internally managed BDCs and externally managed BDCs and their investment advisers
- Formation-stage BDCs, small- and medium-sized BDCs targeting growth, and large non-traded BDCs contemplating a listing or liquidity event
- Downstream and upstream affiliated funds and wholly-owned SBIC subsidiaries
- Underwriters and dealer managers active in the BDC space

Our BDC attorneys advise and work with you to

- **Structure formation transactions customized to your specific needs** – whether publicly traded or non-traded, or internally or externally managed, forming via a blind pool, through acquisition of an existing private fund, through acquisition of an existing external advisor or the purchase of a portfolio of investments
- **Access public capital** – whether universal shelf offerings, underwritten public offerings, PIPE transactions, 144A offerings, overnight transactions, debt offerings, and at-the-market offerings
- **Execute portfolio company transactions** – including acquisition and disposition of portfolio company investments, emphasizing speed and cost effectiveness, and establishment of wholly-owned small business investment company (SBIC) subsidiaries and issues arising from SBIC ownership and operation
- **Provide strategic insight and support the establishment of joint ventures and strategic investments within the BDC framework**
- **Establish a culture of sound corporate governance and compliance** – implement robust compliance policies and procedures and supervisory controls, train employees and consultants and monitor ongoing compliance performance
- **Ensure compliance with federal and state laws and regulations governing securities, BDCs and advisers** – including the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Act of 1933, the Securities Exchange Act of 1934, NASDAQ and NYSE rules, and broker-dealer and FINRA rules
- **Interact with regulators** – prepare registration applications, exemptive relief applications and no-action letters, and ongoing compliance reporting
- **Explore other fund products** – including interval funds and other types of closed-end funds, REITs and non-traded BDCs, specialty finance vehicles, SBICs, SPACs and other pass-through tax structures, including master limited partnerships

White Collar Defense
& Government
Investigations

Related Industries

Banking & Financial
Services

Manufacturing

Real Estate

Why Nelson Mullins?

- Industry and niche market knowledge
- Hands-on approach, practical advice, and flexible pricing help clients execute and complete transactions and ensure regulatory compliance quickly and cost effectively
- Partner level advisors – our footprint enables a cost-efficient service model with direct partner-level involvement
- Full service capabilities, including tax matters applicable to RICs, M&A, legislative issues, registered adviser matters, and financial institution and banking regulatory experience that supports the BDC enterprise

Experience

Following is a selected sampling of matters and is provided for informational purposes only. Past success does not indicate the likelihood of success in any future matter.

- Represented a Chicago-based business development company in its \$85 million initial public offering, \$56 million follow-on offering, \$42 million and \$55 million “overnight” offerings, and \$50 million “at-the-market” offering of common stock
- Represented the underwriters in the \$100 million initial public offering of common stock of a fund that elected to be regulated as a business development company
- Represented an Evanston, Illinois-based business development company in its \$70 million initial public offering of common stock
- Represented the placement agents in a \$100 million private offering of senior notes of a business development company
- Represented the initial purchaser in a 144A equity offering for a fund structured to go forward as a business development company
- Advised the special committee of the board of directors of a SPAC in the potential acquisition of the external manager of a business development company
- Advised an underwriter, a New York-based investment bank, in the implementation of an “at-the-market” equity shelf offering for a business development company
- Advised a California-based non-traded business development company regarding compliance issues before the Securities and Exchange Commission
- Represented a California-based non-traded BDC in its initial public offering of up to \$1.5 billion in a continuous offering
- Represented various underwriters in the public offerings of common stock for an Arlington, Virginia-based business development company of \$55 million, \$72 million, \$76 million, \$32 million, \$40 million, \$34 million, \$56 million, \$35 million, \$116 million and \$54 million