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Alts Managers' Mad Scramble to Meet Reporting Requirements for 2024 is Underway

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Genna Garver was quoted in the December 11, 2023 *Alternatives Watch* article, "[Alts Managers' Mad Scramble to Meet Reporting Requirements for 2024 is Underway](#)."

The day the SEC adopted its new private fund advisor rule marked the first time in Genna Garver's 24 years of legal practice that she ever had a billable question within hours of a rule's release.

"There are definitely lots of questions," Garver, investment management partner at Troutman Pepper Hamilton Sanders, said with a chuckle in a recent *Alternatives Watch* interview.

Garver said that the actions firms take today could be impacted by the new rule when it comes fully into effect, especially the use of side letters and the planning for new terms for new funds. She advises clients to get prepared even though the deadline is a year away, particularly for the filing of quarterly reports.

"I don't think anyone is doing reporting at that level today," she said. "They really do need to take a look and make sure they understand and have the means to calculate performance and ways to show it. Managers need to look at fee waivers and other items to calculate. They need to make sure they are properly resourced and in some cases they may need hire third party."

Legal experts also do not recommend holding out for the industry's case against the SEC being successful.

"The timeframe for implementation will not change because of the litigation, unless there is something big that occurs," said Garver. She added that there may have been previous opportunities where the industry could have pushed the issue of SEC overstepping its authority, such as during the debate over Dodd Frank that could have forced Congress to clarify the agency's authority.

"The reality is that people don't understand the judicial review standard for these types of rules," added Garver. The court can't just force the SEC to re-decide. Last summer there was an EPA decision — so I do think we have precedent for the Supreme court vacating agency rules over lack of authority."

Garver doesn't see the current new rule getting vacated, but if it were to be dropped it would be based on the economic feasibility and whether it was considered during the rulemaking process. The other provisions are of topics that have been addressed under current regulation on fraudulent practices and through enforcement broadly.

"I don't know what the Vegas odds are on this, but compliance has no place of betting on this as they need to get to work!" she added.

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