

Speaking Engagements | October 29, 2024 | 2:10 PM - 3:25 PM ET

Application and Management of Fiduciary Duties for Private Fund Advisers

Omni Dallas
Dallas, TX

SPEAKERS

Genna Garver

Tuesday, October 29 • 2:10 – 3:25 p.m. ET

Troutman Pepper partner Genna Garver will be speaking on the panel “Application and Management of Fiduciary Duties for Private Fund Advisers,” at the 2024 NSCP National Conference.

Private Fund managers are subject to the Advisers Act implied fiduciary duties with respect to their fund clients. In May, the Fifth Circuit vacated the SEC’s PFAR in part for the lack of statutory or anti-fraud authority under the Advisers Act, calling into question the SEC’s authority to enforce fiduciary duties on behalf of fund investors. However, private fund managers (or their affiliates), remain subject to state/common law fiduciary duties. This program will explore various compliance considerations for private fund managers with respect to the scope and application of these multiple fiduciary duties. This panel will also cover the following learning objectives:

- Review the scope of 206(4)-8 under the Advisers Act and applicability of state and federal fiduciary duties of private fund managers
- Learn how to manage compliance concerns with private fund governing documents, including how to:
 - Shape the implied Advisers Act fiduciary duties in agreements
 - Contractually manage liability and provide for indemnification
 - Address conflicts related to receipt of portfolio company fees and fee offsets
- Implement LPACs and other governance measures to address conflicts
- Review the permissibility of receiving accelerated monitoring fees
- Analyze recent enforcement cases involving private fund manager fiduciary duties

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