

Press Coverage | August 23, 2023

SEC Adopts Sweeping Final Private Fund Disclosure Rule

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Genna Garver

Genna Garver, a partner in Troutman Pepper's Corporate Practice Group, was quoted in the August 23, 2023 *Fundfire* article, "[SEC Adopts Sweeping Final Private Fund Disclosure Rule](#)."

Stepping back from the contentious proposals is not surprising given the significant industry pushback, said Genna Garver, partner in the investment management and compliance law group at Troutman Pepper Hamilton Sanders. But the SEC may address those matters with other guidance, she said.

"Both of these items – indemnification and accelerated monitoring fees, and the concept of whether disclosure alone is enough protection for investors – go to the heart of the SEC's power," she said. "The work to be done now is to understand the footnotes and what's in the examples of the adopting release... We'll likely be left with some gray area still."

...

The original proposal's ban would have significantly altered the scope of current regulations, Garver said.

"It's clear there is an implied fiduciary duty under the Advisers Act, but not a corresponding private right of action for investors to enforce that duty – only the SEC can enforce that," she said. "If we are left with uncertainties, one can only assume we'll be dealing with a regulation through enforcement scenario to learn what's going to be OK and what's not going to be OK."

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