

MEDIA MENTIONS

Schulte partner Allison Scher Bernbach quoted in *Private Funds CFO*

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Schulte Roth & Zabel partner Allison Scher Bernbach recently spoke to Bill Myers for his *Private Funds CFO* article, “Did the SEC just double down on accelerated fees and indemnities?”

Despite appearing in the original 2022 proposal, a prohibition on fees for unperformed services and an indemnification prohibition did not appear in the SEC’s new Private Fund Advisers Rules.

The SEC explained, “In a change from the proposal, we are not adopting the prohibition on fees for unperformed services because we believe this activity generally already runs contrary to an adviser’s obligations to its clients under the federal fiduciary duty. We are also not adopting the indemnification prohibition that we proposed because much of the activity that it would have prohibited is already prohibited by the federal fiduciary duty and antifraud provisions.”

Allison stated, “In explaining why they abandoned the accelerated fees in the final rule, the SEC said that engaging in these activities may be a breach of fiduciary duty. The question still open is whether disclosure is enough to cure that breach, or whether reimbursing fees for services that you don’t end up providing is enough to cure a deficiency.”

[Read the article.](#)

Related People



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