

MEDIA MENTIONS

Schulte partner Allison Scher Bernbach featured in *Private Equity Law Report*

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Schulte Roth & Zabel partner Allison Scher Bernbach discussed a series of recent SEC enforcement settlements related to violations of the Marketing Rule and a related risk alert (“Risk Alert”) issued by the SEC’s Division of Examinations (“Examinations”) in *Private Equity Law Report’s* article, “Recent SEC Enforcement Sweep and Risk Alert Highlight Weak Areas of Marketing Rule Compliance for Managers to Bolster.” In regard to the enforcement settlements, Allison noted that while the hypothetical performance violations that were the focus of the enforcement actions are not necessarily common practices in the private equity industry, an important element of these enforcement sweeps is the message the SEC is sending through the volume of cases involved. She also cautioned, “It’s also a message that even with respect to one or two instances of deficiency that seem minor at first glance, there can still be an enforcement proceeding for inadequate policies and procedures.”

Shortly after the enforcement actions were settled, the SEC issued a risk alert to “encourage accurate completion of the Marketing Rule items contained in Form ADV and to promote compliance with” the Compliance Rule, Books and Records Rule and general prohibitions under the Marketing Rule. The Risk Alert is arguably more substantive than others that Examinations released in the past as to the Marketing Rule, which is very valuable for the industry, Allison said. “Risk alerts have historically been tools that advisers use to benchmark their practices against what is highlighted in the risk alerts, which really helps to guide market practices and offer a sense of the SEC’s expectations.”

Read more here. (subscription required)

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