

 **PEOPLE**



David M. Cohen
Partner

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Advises on matters related to fiduciary responsibility, the Employee Retirement Income Security Act of 1974 (ERISA) and qualified plans.

Before joining Schulte, David held positions in both the private sector (as vice president and assistant general counsel of a major investment firm) and government service (with the Department of Labor Employee Benefits Security Administration's Divisions of Regulatory Coordination and Exemptions).

David speaks and writes widely on ERISA and benefit fund-related issues, including authoring ERISA compliance guides for broker-dealers for Practising Law Institute and presenting on:

- "Handling ERISA Issues When Managing a Plan Asset Look-Through Fund" for a Financial Research Associates Hedge Fund Tax, Accounting and Administration Master Class

- “Fund Formation Issues,” “Current Topics in Private Equity and Alternative Investments” and “Current Fiduciary Issues” for recent Practising Law Institute Pension Plan Investments and ERISA Plans in the Financial Markets conferences

In recognition of his accomplishments, he was selected for inclusion in *New York Super Lawyers*, a listing of outstanding lawyers in the New York metro-area, *Chambers USA* and *The Best Lawyers in America*.

Practices

DERIVATIVES

EMPLOYMENT AND EMPLOYEE BENEFITS

INVESTOR REPRESENTATION

PRIVATE EQUITY

REGULATORY AND COMPLIANCE

DERIVATIVES AND TRADING AGREEMENTS

Bar Admissions

New York

Education

The George Washington University Law School, J.D.

Columbia University, B.A.

Publications

- “What Are the Retirement Plan Dollar Limits for 2023,” *Schulte Alert*, Oct. 25, 2022
- “IRA Mandate for Private Sector Employers in New York State and New York City,” *Schulte Alert*, March 23, 2022
- “DOL Compliance Guidance on Plan Investments in Digital Assets,” *Schulte Alert*, March 16, 2022
- “DOL Confirms Private Equity Can Be Small Components of Defined Contribution Plan Investments,” *Schulte Alert*, June 24, 2020
- “Qualified Retirement Plan Updates: The Changing Landscape for Communication with Participants,” *Schulte Alert*, June 23, 2020
- “401(k) and 403(b) Plans Under the CARES Act: Implementing Special Employee Relief,” *Schulte Alert*, April 3, 2020
- “Tax-Qualified Retirement Plans Under the CARES Act (COVID-19),” *Schulte Alert*, March 30, 2020
- “ERISA Considerations for Investment Managers – COVID-19 and Volatile Markets,” *Schulte Alert*, March 19, 2020
- “First Circuit Court of Appeals Finds Private Equity Funds Not Liable for Pension Liabilities of Portfolio Company,” *Schulte Alert*, Dec. 5, 2019
- “US Collective Investment Trusts (CITs),” *The Hedge Fund Journal*, October 2019 (quoted)
- *Private Equity Funds: Formation and Operation*, Practising Law Institute, 2018-2019 (contributor)
- “DOL Fiduciary Duty Rule Officially Dead,” *Schulte Alert*, July 5, 2018, co-author
- *Hedge Funds: Formation, Operation and Regulation*, ALM Law Journal Press, co-author; Full Court Press, 2022, co-author

- “DOL Fiduciary Rule: Update for Fund Managers,” *Schulte Alert*, Feb. 9, 2017, co-author
- “United States Fundraising,” *The Private Equity Review* (Law Business Research Ltd.), 2014-2017 (contributor)
- “ERISA Compliance Guide for Broker-Dealers,” *Practising Law Institute Pension Plan Investments 2005: Confronting Today’s Issues*, co-author
- “Selected ERISA Issues Affecting Broker-Dealers,” *Practising Law Institute Pension Plan Investments 2004: Confronting Today’s Issues*, co-author
- “Broker-Dealer Developments: ERISA Implications of Various Developments in the Securities Industry,” *Practising Law Institute Pension Plan Investments 2002: Confronting Today’s Issues*, co-author
- “An Overview of ERISA Concerns for Investment Advisers,” *ERISA and Benefits Law Journal*, co-author

Speaking Engagements

- “Managing ERISA Funds,” Schulte London Investment Management Hot Topics, May 2023
- “Current Issues in Plan Investment: Buy-Side Issues,” PLI Pension Plan Investments 2022: Advanced Perspectives, New York, November 2022
- “ERISA,” Schulte 30th Annual Private Investment Funds Seminar, January 2021
- “Current Issues in Plan Investment: Buy-Side Issues,” PLI Pension Plan Investments 2020: Current Perspectives, Webcast, May 2020
- “Commingled Investment Vehicles - VCOC/REOC/Hedge Funds,” PLI ERISA Plan Investments in the Financial Markets 2020: The Fundamentals, New York, March 2020
- “Updates on ERISA – Dealing With Greater ERISA Inflows,” Schulte London Breakfast Briefing, January 2020
- “Regulatory Compliance 2020,” Schulte 29th Annual Private Investment Funds Seminar, New York, January 2020
- “Current Plan Investment Issues,” PLI Pension Plan Investments 2018: Current Perspectives, New York, May 2019
- “FAQ – Managing ERISA Funds,” Schulte London Investment Management Hot Topics, July 2018
- “Current Plan Investment Issues,” PLI Pension Plan Investments 2018: Current Perspectives, New York, May 2018
- UBS Premier Hedge Fund Conference, New York, April 2018
- “Commingled Investment Vehicles - VCOC/REOC/Hedge Funds/REITs,” Practising Law Institute ERISA Plan Investments in Financial Markets 2018: The Fundamentals, New York, March 2018
- “Regulatory Compliance 2018,” Schulte 27th Annual Private Investment Funds Seminar, New York, January 2018

- Schulte Employment & Employee Benefits Luncheon for Investment Managers, New York, October 2017
- “Erring on the Side of Caution: An ERISA Toolkit,” Goldman Sachs Seventh Annual European Hedge Fund Leadership Conference, Paris, March 2017
- Schulte Employment & Employee Benefits Luncheon for Investment Managers, New York, November 2016
- “Current Topics in Private Equity and Alternative Investments,” Practising Law Institute Pension Plan Investments 2016: Current Perspectives, New York, March 2016
- “Fund Formation Issues,” Practising Law Institute ERISA Plans in the Financial Markets Seminar, New York, February 2016
- “Trading Compliance: Managing Regulatory Risk,” Schulte 25th Annual Private Investment Funds Seminar, New York, January 2016
- “Pension Market Developments and Its Demands of Investment Products,” International Bar Association 26th Annual Conference on Globalisation of Investment Funds, Paris, June 2015
- “Current Topics in Private Equity and Alternative Investments,” Practising Law Institute Pension Plan Investments 2015: Current Perspectives, New York, March 2015
- Schulte Advanced ERISA Luncheon: An In-Depth Look at Its Impact on Private Equity and Hedge Funds, New York, March 2015
- “ERISA: From No Plan Assets to Managing Plan Assets,” Schulte 24th Annual Private Investment Funds Seminar, New York, January 2015
- “What You Need to Know When ERISA Plans Come Knocking,” Schulte London Breakfast Briefing, May 2014
- “Current Fiduciary Issues,” Practising Law Institute Pension Plan Investments 2014: Current Perspectives, New York, April 2014
- “Marketing and Working with Investors in the Current Environment,” Ambrose Connects, New York, May 2013

- “The Plan Perspective,” Practising Law Institute ERISA Fiduciary Investment Basics Seminar, New York, February 2013
- “Compliance Spotlight,” Schulte 22nd Annual Private Investment Funds Seminar, New York, January 2013
- “Distribution Requirements and Taxation,” Practising Law Institute ERISA: The Evolving World Seminar, New York, August 2012
- “The Legal Structure of Consultant Arrangements,” International Foundation Investments Institute, White Sulphur Springs, WV, April 2012
- “Structuring a Plan Asset Hedge Fund and Other Current Investment Fund Issues,” Practising Law Institute Pension Plan Investments Seminar, New York, April 2012
- “Compliance Spotlight” and “Relationships With Institutional Investors,” Schulte 21st Annual Private Investment Funds Seminar, New York, January 2012
- “Handling ERISA Issues When Managing a Plan Asset Look-Through Fund,” Financial Research Associates 13th Annual Effective Hedge Fund Tax Practices Conference, New York, November 2011
- “The Nuts & Bolts of Managing ERISA Plan Assets,” Schulte Investment Management Hot Topics, New York, June 2011
- “Update on Current Core Issues for Financial Institutions,” Practising Law Institute Pension Plan Investments: Current Perspectives, April 2011
- “Compliance Spotlight,” Schulte 20th Annual Private Investment Funds Seminar, January 2011
- “Legal Issues Concerning Alternative Investments: Focus on Hedge Funds,” International Foundation of Employee Benefits Plans 56th U.S. Annual Employee Benefits Conference, November 2010
- “Update on Current Core Issues for Financial Institutions,” Practising Law Institute Pension Plan Investments: Current Perspectives, April 2010

- “Spotlight on Compliance: Key Issues for 2010,” Schulte 19th Annual Private Investment Funds Seminar, January 2010
- “Handling ERISA Issues When Managing a Plan Asset Look-Through Fund,” Financial Research Associates Hedge Fund Tax, Accounting and Administration Master Class, May 2009
- “Current Issues Relating to Hedge Funds and Private Equity,” Practising Law Institute Pension Plan Investments: Current Perspectives, April 2009
- “Spotlight on Compliance: Key Issues for 2009,” Schulte 18th Annual Private Investment Funds Seminar, January 2009
- “Unrelated Business Taxable Income and Plan Assets – What Every Fund Manager Should Know,” Financial Research Associates 10th Annual Effective Hedge Fund Tax Practices Seminar, November 2008
- “ERISA Compliance Update,” Schulte Investment Management Hot Topics, November 2008
- “Department of Labor Focus on ERISA Reporting and Disclosures,” Schulte Greenwich Private Investment Funds Seminar, September, 2008
- “Tax and ERISA Planning: U.K. and U.S. Perspectives,” Schulte 17th Annual Private Investment Funds Seminar, January 2008
- “ERISA Law Changes” and “How to Handle ERISA Issues When Managing a Plan Asset Look-Through Fund,” Schulte International Sixth Annual Hedge Funds Hot Topics Seminar, October 2007
- “Revenue Sharing Arrangements in 401(k) Plans,” Practising Law Institute Pension Plan Investments: Current Perspectives, May 2007
- “Update on Hedge Funds and Their Interaction with ERISA,” Institute for International Research Hedge Fund Regulation & Compliance Conference, April 2007
- Financial Research Associates’ Eighth Annual Hedge Fund Regulation & Compliance Forum, November 2006

- “ERISA Requirements: How to Avoid or Comply with Rules Governing Pension Funds,” American Conference Institute Fourth National Legal and Compliance Forum, November 2006
- “ERISA Law Changes with Respect to the Hedge Fund Industry,” Investment Management Hot Topics Series Session 1: Major Law Changes/Rules for Registration & ERISA, September 2006
- “ERISA Developments,” Greenwich Private Investment Seminar, May 2006
- “ERISA Implications of Soft Dollar and Directed Brokerage Arrangement,” Institute for International Research Conference
- “Mutual Funds in Crisis: A Prudent Fiduciary Response,” American Bar Association Section of Business Law Committee on Employee Benefits and Executive Compensation, Fall 2004
- “ERISA Compliance,” National Society of Compliance Professionals Inc.’s National Membership Meeting, 2004
- “Selected ERISA Issues Affecting Broker-Dealers,” Practising Law Institute, June 2004
- “Managing ERISA Money,” Schulte’s Transatlantic View of Emerging Hedge Fund Issues, October 2003
- “Directed Brokerage and Recapture of Commissions,” Soft Dollars Directed Brokerage and Other Commission Recapture Practices, July 2003
- “Running a Plan Asset Fund,” Schulte Private Investment Funds: Current Issues & Trends Seminar, January 2003
- “Understanding How Hedge Funds Fit within ERISA Context,” INFOVEST 21, January 2003

Memberships

- Business Law Section, American Bar Association

Distinctions

- *Chambers USA*
 - *The Best Lawyers in America, 2009–2020*
 - *New York Super Lawyers, 2006–2020, 2022*
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Prior Experience

- Partner, Rosenman & Colin
- Vice President and Assistant General Counsel, Prudential Securities Inc.
- Division of Regulatory Coordination; Division of Exemptions, US Department of Labor, Employee Benefits Security Administration