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How CCOs Can Prepare a Custody Rule Review

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Under the Securities and Exchange Commission's custody rule (Investment Advisers Act Rule 206(4)-2(d)(2)), a registered investment adviser is deemed to have custody of client assets if the adviser or a so-called "related person" of the adviser — including parties under common control with the IA — directly or indirectly holds, or has any authority to obtain possession of, client funds or securities. Many managers of private funds, such as most hedge or private equity funds, are deemed to have custody because their investment management agreements grant them the authority to withdraw funds or securities from a client account or because the manager or a related person serves as a general partner or managing member of a fund vehicle. In this article, partner Marc E. Elovitz and former Schulte lawyer Brian Daly discuss the custody rule's obligations and how CCOs can structure a custody rule review.

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