

MEDIA MENTIONS

Schulte partner Kelly Koscuiszka featured in Part II of *Hedge Fund Law Report* series on Form PF “Current Reports”

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Schulte Roth & Zabel partner Kelly Koscuiszka lent her insights to the *Hedge Fund Law Report* for their in-depth coverage of “current reports” amendments made to Form PF. In Part II of the series, Kelly tackled the challenges and approaches to reporting and the future of Form PF “current reports.”

As hedge fund managers develop best practices, Kelly articulated the nuances involved when determining who the critical decision makers are in the reporting process, dependent upon the organization’s structure, “Some firms are small enough that the GC/CCO will make these decisions because they’re wearing a couple of different hats already or function like they do. At other places, it may depend on the trigger. The more common approach of large managers is to have a working group or some kind of reporting line, so it isn’t up to just one person.”

When it comes to “close calls” on when and what to report, Kelly suggested taking a measured stance, noting, “I would say Advisers are taking a thoughtful approach. The adopting release to the Amendments suggested, ‘When in doubt, file.’ That’s not really good for anyone, though, including the SEC. When so many reports are submitted, there’s so much noise that the regulator can’t actually identify the substantive ones. It’s not a good model if this becomes something other than a thoughtful filing.”

Kelly highlighted the benefits of participating in these examination efforts and the potential impact this work has in the evolution of reporting, she commented, “What we’ve seen in early exams on something new is that if you’ve shown a lot of thought in trying to get it right, the exam staff is as much examining you as they are learning, and many examiners will give you credit for having done the hard work. And, sometimes if you put a lot of work into a new rule or risk area, it starts to shape what the standard is in the eyes of the examiners.”

The industry continues to adapt to additional and amended regulations and contemplates the likelihood of additional guidance from oversight authorities, “I really hope we get some guidance, but with the pace of rulemaking, how could the SEC Staff possibly keep up with the guidance? To me, that’s one of the downsides of having so much rulemaking at once. With a final rule, there will always be things the SEC didn’t anticipate. That’s why guidance from the Staff is really important. Although guidance doesn’t change the rule, it shapes how the rule is interpreted and enforced,” Kelly explained.

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