



Morgan Lewis

**ADVANCED TOPICS IN  
HEDGE FUND PRACTICES  
CONFERENCE**

**Manager and Investor Perspectives**

**WEBINAR SERIES**

**Track 3: Regulatory and Enforcement**

Wednesday, May 12, 2021

[www.morganlewis.com/2021hedgefundconference](http://www.morganlewis.com/2021hedgefundconference)

# On the Front Lines of ESG: Governance

## Speakers



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# Enforcement Trends and Issues

## Speakers



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# Agenda



**SEC Enforcement Developments**



**Trends in Private Fund Enforcement**



**What to Expect from the SEC**

# SEC Enforcement Developments: Effects of the COVID-19 Pandemic



- Declining investigations, actions, headcount
  - Stand-alone action activity continued to *decline* by case count
  - Substantial *increase* in tips, complaints, and referrals
  - Substantial *increase* in whistleblower complaints
- Altered case focus
  - Offering fraud
  - Trading halts
- New techniques that will carry forward
  - Remote witness interviews/testimony
  - Widespread use of data analytics

# SEC Enforcement Case Trends



## Private Funds

- Expense allocation
  - Focus on co-investment vehicles
- MNPI
- Principal trades and cross-trades
- Compliance with fee provisions
- Performance claims
- Custody Rule
- Gate keepers
  - Oversight by administrators

# What to Expect from the SEC

## New Leadership

### General Enforcement Focus:

- Heightened scrutiny of the waiver process
- Shift of case resolution from examinations to enforcement
- Demand for more significant civil penalties
- Data analytics
- Voluntary reporting initiatives
- Return to “message” cases

### Private Fund Focus Areas:

- ESG
- Preferential redemptions and disclosures
- Valuation issues
- PPP misconduct
- Expense allocation

# Regulatory and Examination Priorities for Private Fund Advisers

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# 2021 Examination Priorities – Private Fund Advisers



- Alternative data
- Preferential treatment of certain investors, especially with private funds experiencing liquidity issues (e.g., imposing gates or suspensions on fund withdrawals)
- Portfolio valuations and their given impact on management fees
- Adequacy of disclosure and compliance with regulatory requirements for cross-trades, principal investments, and distressed sales
- Conflicts around liquidity, such as GP-led fund restructurings (including stapled secondary transactions where new investors purchase existing investors' interests while agreeing to invest in a new fund)
- High concentration of structured products, such as collateralized loan obligations and mortgage-backed securities (i.e., to assess whether funds are at a higher risk for holding non-performing loans and having loans with higher default risks than disclosed to investors)
- Material impacts on portfolio companies owned by a private fund (e.g., real estate related investments) due to recent economic conditions

# ESG Examination Focus



- Focus Areas
  - Portfolio management practices
  - Performance advertising and marketing
  - Compliance programs
- Deficient Practices Observed
  - Disclosure Issues: ESG investing practices and fund holdings that were inconsistent with client disclosures
  - Control Issues: Inadequate controls governing the implementation of ESG aspects of client guidelines, mandates, and restrictions
  - Proxy Voting Claims vs. Policies and Practices: Inconsistencies between proxy voting policies and procedures and public ESG-related proxy voting claims, which may have resulted in inconsistent proxy voting
  - Misleading or Baseless Marketing Claims: Unsubstantiated or misleading claims and inadequate controls to ensure the information disclosed in marketing and other materials is consistent with current ESG practices
  - Weak Compliance Programs: Compliance programs that lacked adequate ESG policies and procedures and inexperienced compliance personnel

# The SEC's New Marketing Rule: Key Changes

Advertising and Cash Solicitation Rules first adopted in 1961 and 1979, respectively.

SEC merged the rules in adopted Marketing Rule (will rescind Cash Solicitation Rule).

Replacing per se prohibitions with principles-based prohibitions.

New rule includes communications with private fund investors.

Definition of "advertisement" expanded from current rule (includes endorsements, testimonials).

Endorsements and testimonials are permitted, but require certain disclosures.

New standards for presentations of performance, including use of hypothetical performance.

Rule does not include proposed distinction between "retail" and "non-retail" communications, but has certain exceptions for private funds.

Books and records rule will require retention of advertisements and certain related materials.

Certain SEC staff no-action letters will be rescinded – list will be posted on SEC's website.

# The SEC's New Marketing Rule





- Extension of rule to investors in private funds
- Expanded definition of “advertisement”
  - Types of private fund communications in and out of scope
- New general prohibitions
- New framework for use of performance advertising
  - Case studies, track record, and related private fund matters
- Use of testimonials and endorsements
- Considerations for referral and solicitation arrangements for private fund managers
- Related books-and-records requirements


# The SEC's New Marketing Rule: Transition Planning


 Effective date: May 4, 2021; Compliance date: November 4, 2022


 Break down analysis into ads and promoter arrangements


 Analyze changed requirements in relation to your practices

 Develop new templates (and checklists) for both ads and promoter arrangements

 Catalog and conform ads and promotional arrangements to new framework

 Review and revise your policies and procedures

 Update Form ADV Part 1A

 Watch for SEC and staff guidance, including regarding existing no-action guidance

# On the Horizon

## Gensler Testimony – SEC

- Issue report on “gamification” features in trading apps, assessing volatile market events for any violations, and considering need for expanded enforcement mechanisms
- Look into the payment for order flow, which is banned in the United Kingdom and Canada
- Apply Regulation Best Interest “vigorously” through “examination and enforcement and guidance, to ensure that that rule is fully complied with as written”; “if it’s not serving the purpose of investors, then we will update and freshen that rule”
- Will make ESG disclosure issues a priority
- May look to Congress for help on investor protection in the cryptocurrency market

## House Financial Services Committee Proposals

- Modify Section 13(f) to
  - Require reports to be filed 5 days after the end of each month
  - Define “covered security” to include equities, short positions, and derivatives exposures
  - Call for SEC study to evaluate standards for confidential treatment
- Amend the Advisers Act limit on the family office exemption from the definition of investment adviser to those family offices with AUM less than \$750 million
- Require the SEC to study the impact of the gamification of online trading platforms
- Amend the Exchange Act to
  - Establish requirements for retail investor options trading
  - Prohibit payment for order flow
  - Prohibit trading ahead by market makers

# Whats the Worth? Current and Emerging Valuation Issues

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# Valuation: Current Considerations

## SEC Division of Examination areas of focus:

- Pricing and valuation of digital assets
- Private fund portfolio valuation and impact on management fees
- Investments stressed due to pandemic conditions: energy, real estate, bank loans, high-yield corporate and municipal bonds

## Closed-end funds, mutual funds, ETFs or BDCs will have to enhance their valuation procedures by Sept. 8, 2022

- Private fund managers that also manage such products will need to be consistent
- Concepts in the new rule could provide useful guidance for private fund managers
- Private fund managers that invest in such products could see slight changes in value



# Valuation: Key Takeaways

Need to have an objective, repeatable process

Documentation of supporting evidence of value, particularly for overrides

Consider the frequency and scope of vendor diligence efforts

Valuation committees should not be dominated by portfolio management

Disclose key processes, methodologies, assumptions, and risk in offering documents and account statements

Use auditor as resource

# LIBOR Transition and Derivatives Update

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# LIBOR Update



- UK FCA statement

- All LIBOR settings will either cease to be provided by an administrator or no longer be representative (i) immediately after December 31, 2021 in the case of all sterling, euro, Swiss franc and Japanese yen settings, and the one-week and two-month US dollar settings, and (ii) immediately after June 30, 2023, in the case of the remaining US dollar settings.
- Publication of all seven euro LIBOR settings, all seven Swiss franc LIBOR settings, the Spot Next, one-week, two-month and 12-month Japanese yen LIBOR settings, the overnight, one-week, two-month and 12-month sterling LIBOR settings, and the 1-week and 2-month US dollar LIBOR settings will cease immediately after December 31, 2021 with no subsequent synthetic basis publication.
- Publication of the overnight and 12-month U.S. dollar LIBOR settings will cease immediately after June 30, 2023 with no subsequent synthetic basis publication.

# LIBOR Update



If the FCA is given authority to require publication of synthetic rates, then the FCA will continue to consider the case for requiring continued publication on a synthetic basis of the one-month, three-month and six-month U.S. dollar LIBOR settings for a further period after June 30, 2023



The foregoing statements of the FCA constitute an index cessation event under ISDA.

# LIBOR Update



## **Newly enacted Article 18-C of the New York General Obligations law:**

- Statutory solution for legacy contracts that do not have appropriate fallbacks
- If a contract references US dollar LIBOR with no fallback provisions, then the replacement SOFR rate, including the applicable spread adjustments that are necessary to convert the US dollar LIBOR rate to SOFR, that is recommended by the Federal Reserve Board, Federal Reserve Bank of New York, or the Alternative Reference Rates Committee will be the replacement rate for the contract
- Technical/operational amendments necessary to reflect the rate change are not deemed to be amendments
- No liability for parties implementing these changes
- Contracts not voided, no right to terminate, no excuse for non-performance

# ISDA 2020 IBOR Fallbacks Protocol



## What is the ISDA 2020 IBOR Fallbacks Protocol?

- Provides a mechanism to amend existing derivatives contracts that reference IBORS and the existing ISDA benchmark fallbacks to incorporate more robust fallbacks.
- Blunt instrument – by signing up, a party agrees to incorporate the new fallbacks into all of its legacy ISDA (and certain non-ISDA) agreements under certain conditions.
- Deadline – became effective January 25, 2021; currently no deadline to adhere.

# ISDA 2020 IBOR Fallbacks Protocol



- **Should I adhere to the ISDA 2020 IBOR Fallbacks Protocol?**
- Protocol is voluntary
- Several factors to consider:
  - Derivatives Portfolio –
    - Changing existing fallbacks may be inappropriate for some derivatives
    - Important to assess implication of adherence on projected cash flow
    - Currency of a derivative
  - Carveouts and Bilateral Agreements – Parties may agree bilaterally to carve out certain derivatives from the scope of the protocol
  - Impact of Fallbacks Supplement – The supplement will make similar changes to fallbacks on all ISDAs entered into after adherence

# NFA Interpretive Notice 9079-Supervision of Regulatory Outsourcing

- Requires NFA members, such as CPOs and CTAs, to have a supervisory framework governing outsourcing activities with third-party service providers
- Framework needs to cover outsourcing of *regulatory functions* under CFTC and NFA rules only
- Elements that must be covered:
  - Initial Risk Assessment
  - Onboarding Due Diligence
  - Ongoing Monitoring
  - Termination
  - Recordkeeping
- Effective on September 30, 2021



# Lawyer Biographies

Morgan Lewis

# G. Jeffrey Boujoukos



G. Jeffrey Boujoukos is the leader of our securities enforcement practice. The former regional director of the Philadelphia Regional Office of the US Securities and Exchange Commission (SEC), Jeff defends public companies, financial services clients, and their executives in SEC, self-regulatory organization (SRO), and state enforcement matters. Combining his government and private practice experience, Jeff advises clients in collaboration with Morgan Lewis's securities, white collar defense, and investment management practices. He is admitted in Pennsylvania and Massachusetts only, and his practice is supervised by DC Bar members.

As regional director, Jeff supervised the SEC's examination and enforcement programs in Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia. He led a staff of approximately 160 enforcement attorneys, accountants, investigators, and compliance examiners who investigated and enforced the federal securities laws and performed compliance inspections in the Philadelphia region with jurisdiction over nearly 1,200 investment advisers and investment companies with more than \$10 trillion in assets under management. Further, he closely coordinated with state and federal criminal authorities on a number of parallel investigations.

Jeff also spearheaded the SEC's outreach efforts to retail investors in the Philadelphia region, meeting with registrants, senior investors, college and high school students, and members of the military to promote financial literacy and help protect against fraud. In 2016, he was recognized by the SEC with the Arthur F. Matthews Award for his "sustained demonstrated creativity in applying federal securities laws for the benefit of investors."

Prior to being named regional director of the Philadelphia office, Jeff served as the office's associate regional director from 2014 to 2016. In that role, he supervised the region's enforcement efforts, including the investigation and litigation of matters involving insider trading, financial reporting and accounting fraud, investment advisors, broker-dealers, offering frauds, and Ponzi schemes. He began his tenure at the SEC in 2009 as regional trial counsel for the office, conducting jury trials and emergency hearings, as well as supervising the Trial Unit staff, in actions pending in federal court and administrative proceedings.

In his time as a partner at Morgan Lewis before joining the SEC, Jeff represented broker-dealers, clearing firms, investment advisers, mutual funds, and individuals regarding matters pending with the SEC in Washington, DC, and in its regional and district offices across the United States. Additionally, Jeff represented clients in connection with matters before SROs and state authorities such as the Attorney General offices of New York, New Jersey, and Ohio.

Jeff also has civil litigation experience in class action and other commercial matters. He has represented clients in shareholder and other class actions and complex litigation against corporations, directors, and officers. He has counseled clients in connection with failed transactions, closing balance sheet issues, and breaches of representations and warranties. These representations have taken him to federal and state trial courts throughout the United States.

Jeff has litigated to award a number of multimillion-dollar arbitrations before Financial Industry Regulatory Authority (FINRA) and American Arbitration Association arbitration panels, including matters involving claims against brokerage firms for breach of fiduciary duty, breach of contract, negligence, and breach of the federal securities laws.

Jeff serves as an adjunct professor at Drexel University's Thomas R. Kline School of Law.

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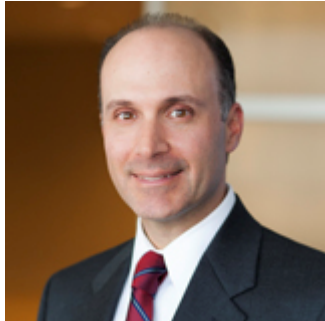
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Katherine Dobson Buckley focuses her practice on the application of derivatives in trading, legal, and regulatory issues. She represents hedge funds, investment advisors, mutual funds, endowments and other market participants in complex cross-border and US futures, derivatives, prime brokerage, custodial, and commodities transactions. Katherine is a member of the firm's LIBOR working group. The LIBOR working group tracks and distills skilled market knowledge on LIBOR transition around the world. The working group acts as the firm's go-to resource on LIBOR transition across a range of jurisdictions and practice areas and continues to track evolving deadlines in relation to LIBOR replacements.

Katherine has experience with International Swaps and Derivatives Association Master Agreements (ISDAs), Prime Brokerage Agreements, Master Repurchase Agreements (MRAs), Master Securities Loan Agreements (MSLAs), and Master Securities Forward Transaction Agreements (MSFTAs), as well as clearing, custody, options and futures account agreements, and related trading documentation. She also advises financial firms and other market participants on US and cross-border regulatory issues, including registration and exemption requirements with the US Commodity Futures Trading Commission (CFTC) and requirements of the Dodd-Frank Act provisions applicable to derivatives transactions.

Katherine spent time on secondment at the general counsel division of Credit Suisse, where she negotiated sophisticated derivative transactions. Katherine also worked as a law clerk for the US Securities and Exchange Commission, researching regulatory and securities fraud issues.

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Thomas V. D'Ambrosio concentrates his practice on structured and complex derivative transactions, including related insolvency and regulatory issues. Thomas helps clients structure, negotiate, and analyze the risk inherent in a wide range of cleared and uncleared derivative and futures products. He represents clients in all asset classes, including equity, debt, credit, commodity, interest rate, currency, and exotic derivatives. His clients include Fortune 500 corporations, private companies, investment managers, hedge funds, financial institutions, pension funds, and high net-worth individuals.

Thomas is particularly active in advising enterprises that employ derivatives to hedge risks, monetize assets, and finance the acquisition of assets on favorable terms—with and without the benefits of leverage—including financing issuer equity and debt repurchase programs. He actively represents clients on LIBOR reform and Dodd–Frank derivative reform.

Thomas is a member of the Firm's LIBOR working group. The LIBOR working group tracks and distills expert market knowledge on LIBOR transition around the world.

Thomas also represents issuers in public and private sales of equity and debt securities. He advises purchasers and sellers in stock sales, asset sales, and merger transactions; counsels investment managers in leveraged private fund investments; and advises pension fund managers and wealthy families with respect to their investments in private funds.

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With a background in senior positions at the US Securities and Exchange Commission (SEC) and as in-house counsel at a financial services firm, Ivan Harris brings insights to securities investigations, examinations, and litigation. He represents public companies, financial services firms, and individuals before the SEC, the Financial Industry Regulatory Authority (FINRA), the Chicago Board Options Exchange (CBOE) and various stock exchanges. Clients in the securities industry regularly seek Ivan's advice on compliance and regulatory matters.

Ivan represents public companies, financial institutions including investment banks, regional broker-dealers, hedge funds and private equity funds, municipal issuers and their employees in investigations by the SEC, FINRA, CBOE and other securities regulators. In the public company and municipal arena, Ivan has handled matters for clients involving financial accounting practices, issuer disclosures, Foreign Corrupt Practices Act (FCPA) violations, and insider trading. He regularly counsels large investment banks, clearing firms and other broker-dealers on complex investigations involving trading practices, market structure issues, anti-money laundering compliance, and other rules and regulations. Ivan has also represented hedge fund and private equity firms facing regulatory investigations and examinations relating to valuation practices, complex trading issues, potential use of inside information, and issues relating to fees and expense practices.

Ivan previously served at the SEC from 1998 to 2005, and from 2001 to 2005 was an assistant regional director for enforcement in the SEC's Miami office. While at the SEC, he led the investigation of a major hedge fund collapse, brought the first SEC case involving illegal hedge fund short selling, and prosecuted cases involving accounting fraud, insider trading, FCPA violations, market manipulation and broker-dealer/investment adviser violations. Several of those cases involved cross-border issues and investigative efforts throughout Europe and Latin America.

Also before joining Morgan Lewis, Ivan was regulatory counsel for a financial services firm, where he advised on trading issues and compliance matters. He also served on several securities industry committees that focused on fixed income trading and securitized products.

Ivan frequently speaks at securities industry and hedge fund conferences.

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Timothy W. Levin, leader of the firm's investment management practice, counsels investment advisers and other financial services firms on the design, development, and management of pooled investment vehicles and investment advisory programs. He also advises fund managers in connection with organization, registration, and ongoing regulatory compliance. Additionally, he represents managers and sponsors of unregistered pooled investment vehicles.

Timothy's clients include many types of registered investment companies, such as mutual funds and registered funds of hedge funds, and funds focused on alternative investment strategies, including business development companies (BDCs). His unregistered pooled investment vehicle clients include private funds, bank collective investment trusts (CITs), and companies seeking exemption from investment company status.

Since 2008, *Chambers USA: America's Leading Lawyers for Business* has recognized Timothy for his work.

He speaks frequently at conferences and moderates panels. He also co-chairs the annual Hedge Fund Conference. Timothy is the editor of *Morgan Lewis Hedge Fund Deskbook: Legal and Practical Guide for a New Era* and the *Mutual Fund Regulation and Compliance Handbook*.

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Christine Lombardo advises investment managers and broker-dealers on financial regulatory matters. She concentrates her practice on securities regulation for a broad range of financial firms including retail asset managers, private fund managers, family offices, broker-dealers, other professional traders, and high-net-worth individuals. Christine also counsels legal, compliance, and business personnel on the structure, operation, and distribution of advisory programs, including digital advisory offerings, and investment products, including hedge funds, private equity funds, venture capital funds, real estate funds, and other alternative investment products.

Christine also counsels financial firms through examinations by industry regulators, as well as on enforcement related matters. Before joining Morgan Lewis, she was an associate at an international law firm in New York and worked for the Division of Enforcement at FINRA.

# Dorothy S. Lund, University of Southern California Gould School of Law



**Associate Professor of Law**

Dorothy Lund's research focuses on corporate law, corporate governance, securities regulation, contracts, and mergers and acquisitions. Her articles have appeared in the *Stanford Law Review*, the *Columbia Law Review*, the *University of Chicago Law Review*, the *Journal of Corporation Law*, the *Delaware Journal of Corporation Law*, and the *Stanford Journal of Law, Business, and Finance*. Her op-eds and other writing have appeared in *The New York Times*, the *Atlantic*, and the *Wall Street Journal*. Lund received a JD from Harvard Law School, where she was an Olin Fellow in Law and Economics. She then clerked for Chief Justice Leo E. Strine Jr. of the Delaware Supreme Court and Judge Joel M. Flaum of the U.S. Court of Appeals for the Seventh Circuit. Before entering academia, Lund practiced corporate law at Sullivan & Cromwell LLP in New York.



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John J. "Jack" O'Brien counsels registered and private funds and fund managers in connection with organizational, offering, transactional, and compliance matters. He regularly works with a variety of different fund structures, including open-end and closed-end funds, exchange-traded funds, and hedge funds. He also counsels investment adviser and broker-dealer clients on various matters, particularly with respect to registration and disclosure, marketing regulations, pay-to-play issues, and transactions in exchange-traded funds.

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Michael M. Philipp counsels financial services clients in futures and securities transactions. He also advises them in derivatives regulation, legislation, compliance, and enforcement matters. United States and foreign exchanges and clearing organizations, banks, investment managers, proprietary trading firms, brokerage firms, and end users turn to Michael for guidance in connection with exchange-traded and over-the-counter derivative instruments. He also represents foreign exchanges and clearinghouses in their US offerings of futures and equity options products and derivatives clearing activities.

Michael has experience working with clients on issues related to the Dodd–Frank Wall Street Reform and Consumer Protection Act, as well as US Commodity Futures Trading Commission (CFTC) registration and compliance-related issues. These issues include trade practices, swap reporting and clearing, registration of swap execution facilities (SEFs), futures exchanges, clearing organizations, and swap data repositories (SDRs); retail and eligible contract participant forex (ECP FX) transactions; and futures commission merchant (FCM), swap dealer, commodity pool operator (CPO) and commodity trading advisor (CTA) registrations and compliance. Michael has experience in conducting internal compliance investigations, as well as representing clients in exchange and CFTC inquiries and proceedings, including matters involving allegations relating to disruptive trading practices, such as spoofing and market manipulation. He also provides assistance to firms that are negotiating bilateral and cleared swap documentation.

Before joining Morgan Lewis, Michael worked as an in-house attorney for the Chicago Mercantile Exchange (CME). There he served as counsel to the CME’s regulatory trade practice, compliance, and arbitration committees.

# Susan D. Resley



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Susan D. Resley serves as deputy practice leader of the firm's securities enforcement and litigation practice. Clients rely on Susan's guidance to counsel and defend them in regulatory matters concerning accounting and disclosure issues, insider trading, Foreign Corrupt Practices Act (FCPA) (including due diligence and compliance), internal controls, cybersecurity concerns, whistleblower-related issues, and Securities and Exchange Commission (SEC) or Financial Industry Regulatory Authority (FINRA) rules related to broker-dealers and investment advisors. She has represented clients in international investigations, including in the United Kingdom, France, China, Japan, Korea, and India.

Susan has been recognized as one of the Top Women Lawyers in California in 2019 by the *Daily Journal* and recommended by *The Legal 500 US* in White Collar Criminal Defense, Corporate Investigations, and Securities Litigation.

Susan has obtained favorable results for her clients, including dismissals in litigation and pre-litigation decisions by the SEC, US Department of Justice (DOJ), Public Company Accounting Oversight Board (PCAOB), and private civil plaintiffs not to bring any action at all. Her clients include companies, boards and their committees, individual directors, senior officers, and employees, as well as accounting firms, brokerage and investment advisory firms, and other financial institutions. Susan represents clients in proceedings brought by the SEC Division of Enforcement, DOJ, and PCAOB and in securities and shareholder derivative actions.

Before joining Morgan Lewis, Susan was a securities litigation partner with an international law firm. Prior to that, she held a partnership role at the global firm. She brings government experience to her clients, as she worked for the SEC before starting in private practice. At that agency's Division of Enforcement in its Los Angeles Regional office, Susan oversaw and took part in investigations into insider trading, broker-dealer practices, municipal bond offerings, accounting practices, and market manipulation.

She lectures frequently on such legal topics as conducting internal investigations, SEC enforcement trends, accounting and controls matters, and the FCPA. She also comments on media outlets including National Public Radio (NPR) and Fox News, and several news and legal publications often quote her.

Susan also serves on the firm's Sarbanes-Oxley and Investment Committees.

# Steven W. Stone



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Steven W. Stone is a securities lawyer who counsels clients on regulations governing broker-dealers, investment advisers and bank fiduciaries, and pooled investment vehicles. Head of the firm's financial institutions practice, Steve counsels most of the largest and most prominent US broker-dealers, investment banks, investment advisers, and mutual fund organizations. He regularly represents clients before the US Securities and Exchange Commission (SEC), both in seeking regulatory relief and assisting clients in enforcement or examination matters.

Steve advises major US broker-dealers in the private wealth and private client businesses that offer investment advice and brokerage services to high-net-worth and retail clients as well as broker-dealers serving self-directed clients. In this connection, Steve has counseled numerous broker-dealers and investment advisers on the SEC's new retail advice regulations, including Regulation Best Interest and Form CRS. He also advises broker-dealers and investment advisers in the managed account or wrap fee area, and serves as counsel to the Money Management Institute, the principal trade association focused on managed accounts. Steve also counsels various institutional investment advisers and banks on investment management issues, including conflicts, trading, disclosure, advertising, distribution, and other ongoing regulatory compliance matters. He also works as counsel on various matters to the Securities Industry and Financial Markets Association's (SIFMA) and the Investment Company Institute (ICI).

Steve's practice includes counseling clients on varied regulatory and transactional matters including the development of innovative products and services; regulation and operation of managed account (or wrap fee) programs and hedge funds; trading issues affecting broker-dealers and investment advisers; soft dollar arrangements; interpretive and no-action letter requests; insider trading issues; and related matters. He guides clients through SEC, Financial Industry Regulatory Authority (FINRA), and state investigations and enforcement actions. Additionally, he counsels clients on mergers, acquisitions, and joint ventures involving broker-dealers and investment advisers.

As part of his practice, Steve regularly assists brokers and investment advisers seeking relief from the SEC and its staff. In this connection, Steve has obtained SEC relief for a broad range of clients, including on payments by brokers to internet portals (Schwab) and to research providers ([Goldman, Sachs & Co.](#) & Schwab), bank network arrangements (Retirement System Distributors), broker confirmation delivery requirements ([Goldman, Sachs & Co.](#), [William Blair & Company](#)), receipt by brokers of payments for research from clients CCAs ([SIFMA](#)) and hard dollar payments from investment advisers subject to MiFID II ([SIFMA](#)), operation of alternative trading systems (Intervest, State Street), broker status of companies facilitating issuer-sponsored affinity investing and dividend reinvestment programs (StockPower) and related Securities Act issues (StockPower), effecting principal trades by advisers (Edward Jones, [Wells Fargo](#), [UBS](#)), custody arrangements involving advisers ([Investment Advisers Association](#)), exercise of discretion by brokers incidental to provision of investment advice (Morgan Lewis), satisfaction by brokers of mutual fund prospectus delivery requirements to managed account clients ([Money Management Institute](#)), and investment sub-adviser delivery of Form ADV firm brochures ([Goldman, Sachs & Co.](#)).

Steve serves as co-leader of the firm's investment funds industry initiative, and previously served on the firm's Advisory Board and was managing partner of the Washington, DC, office.

Since 2005, *Chambers USA: America's Leading Lawyers for Business* has recognized Steve as one of the leading US lawyers for investment management and broker-dealer law, calling him as "one of the best in the field." Since 2009, *The US Legal 500* has listed him for his work with mutual fund formation and management.

# Jedd H. Wider



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Jedd H. Wider focuses on global private investment funds and managed accounts, particularly global hedge, private equity, secondary, and venture capital funds. As co-leader of the global private funds practice, he represents leading financial institutions, fund managers, and institutional investors in their roles as fund sponsors, placement agents, and investment entities. He assists clients through all stages of product development and capital raising as well as customized arrangements, seed and lead investor arrangements, and joint ventures. He specializes in all aspects of secondary transactions, and complex financial structurings.

Jedd concentrates on all aspects of bespoke fund products and arrangements including funds of one and managed accounts and regularly advises clients on all aspects of regulatory compliance.

Members of the international media often seek out Jedd for his views on the hedge fund and private equity fund industries and capital markets. His analysis can be found in US and international publications, including *The Wall Street Journal*, *The Economist*, and *Financial Times*, as well as on television networks such as Bloomberg and CNN.

Jedd lectures and serves as a panelist on private investment fund topics for trade programs and organizations around the world. He has delivered speeches and presentations to numerous private fund conferences such as the Hedge Fund Institutional Forum, Dow Jones Private Equity Analyst Limited Partners Summit, Endowments & Foundations Roundtable, Association of Life Insurance Counsel, National Association of Public Pension Fund Attorneys (NAPPA), West Legalworks, InfoVest21 Hedge Fund Conference, the Annual Euromoney Summit of European Hedge Funds in London, Capital Roundtable Fund Conferences, the Annual International Conference on Private Investment Funds in London, the Wharton Private Equity and Venture Capital Conference, the On Point Investors and Hedge Fund Risk Summit, and the Lazard Capital Markets Hedge Fund Conference.

Jedd is listed in *The US Legal 500*, *Chambers Global: The World's Leading Lawyers*, and *Chambers USA: America's Leading Lawyers for Business*.

He serves as an editorial board member of *The Journal of Investment Compliance* and as an editor of the *Morgan Lewis Hedge Fund Deskbook: Legal and Practical Guide for a New Era* published by Thomson Reuters/West. He regularly publishes articles on current hedge fund and private equity fund topics. He co-chairs the Annual Morgan Lewis Advanced Topics in Hedge Fund Practices Conference and chairs Morgan Lewis's Hedge Fund University Web Series.

Jedd clerked for Judge Nicholas Politan of the US District Court for the District of New Jersey and for US Attorney Rudolph Giuliani of the Southern District of New York.

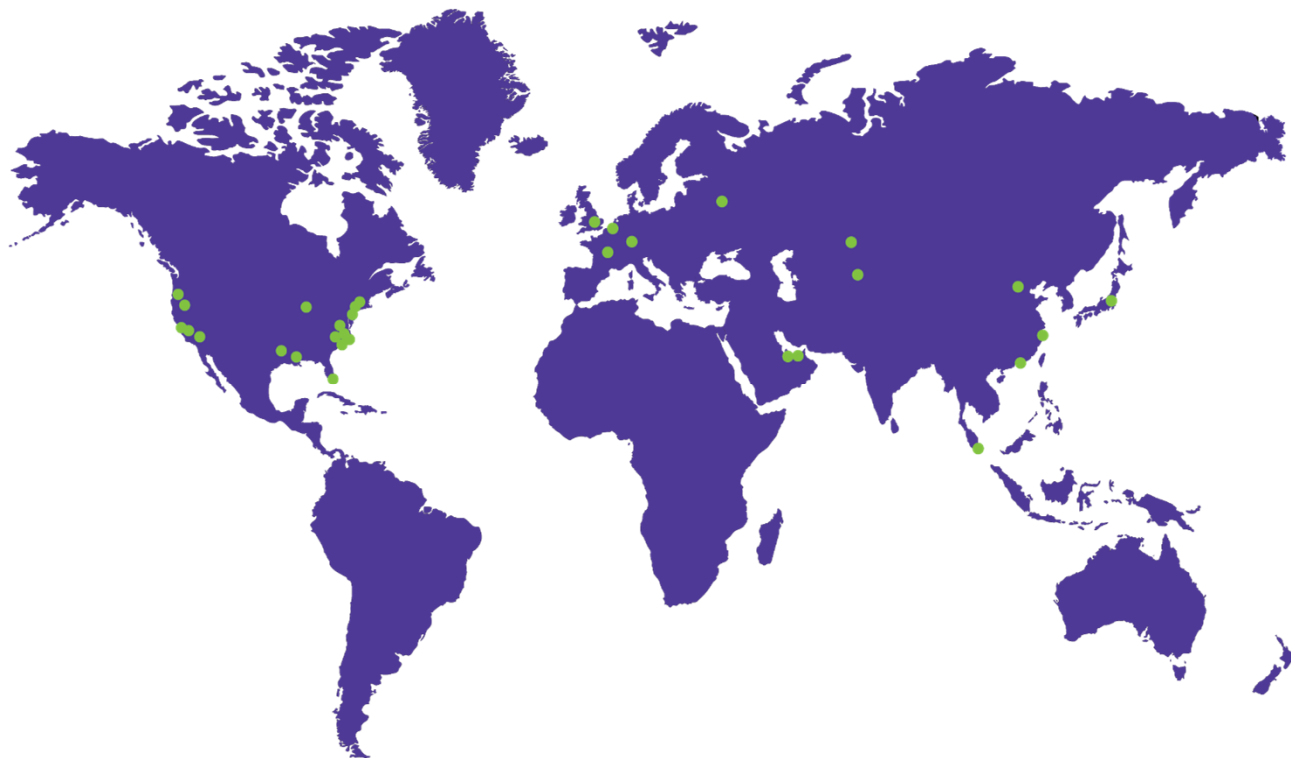
He is conversant in French.

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Europe  
Latin America  
Middle East  
North America

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Almaty  
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Century City  
Chicago  
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Frankfurt  
Hartford  
Hong Kong  
Houston  
London  
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Miami  
Moscow  
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