

Kevin M. Foley

Partner

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Practices

FOCUS: Financial Markets and Funds
Distributed Ledger Products, Services and
Technology
Futures and Derivatives

Industries

Finance and Financial Markets

Education

JD, Georgetown University Law Center
BA, Georgetown University

Bar Admissions

Illinois
District of Columbia

Community Involvements

Futures Industry Association (FIA), Law and
Compliance Division, former member,
Executive Committee

Kevin Foley is the compass financial services firms rely on in navigating the world of derivatives regulation. He helps the largest futures commission merchants as well as derivatives clearing organizations, proprietary trading firms and foreign exchanges comply with the Commodity Exchange Act (CEA) and the rules of the Commodity Futures Trading Commission (CFTC). For more than 25 years, he has served as counsel to the Futures Industry Association, guiding the industry through transformative events like the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

A comprehensive understanding of complex regulations

Kevin has earned wide respect in the industry for his experience, depth of knowledge and leadership on challenging issues. Clients know that he brings an encyclopedic understanding of the CEA and CFTC rules to his engagements. He knows the law, the regulatory purpose underlying specific rules and their enforcement history.

Earlier in his career, Kevin served for four years as chief counsel of the CFTC's Division of Trading and Markets. That experience helps him to assume a regulator's perspective, provide more comprehensive guidance to his clients and craft effective arguments for relief, if necessary. For example, when conflicting US and UK regulatory requirements appeared to prevent US futures commission merchants from using customer securities to support those customers' trading on UK markets, Kevin worked with the CFTC to obtain relief for his client.

A voice for an industry

Industry organizations consistently select Kevin to represent them on high-stakes policy matters. He advised on a study by the National Futures Association and Futures Industry Institute that developed recommendations for best practices in order entry and transmission of exchange-traded transactions. In 2012, he was recognized for his exemplary efforts on behalf of

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FIA in formulating the industry's response to the Dodd-Frank legislation before the CFTC.

Representative Experience

- Regulatory counsel to an industry association primarily with regard to matters before the CFTC.
- Advise clients in preparing and submitting applications for registration with the CFTC as derivatives clearing organizations.
- Advise clients in preparing and submitting applications for registration with the CFTC as foreign boards of trade.
- Counsel in client's application to the CFTC for designation as the first Internet-based futures exchange.

Recognitions

Recognized or listed in the following:

- *Best Lawyers in America*
 - Derivatives and Futures Law, 2006–2022
 - Lawyer of the Year
 - Derivatives and Futures Law, Chicago, 2020
- *Chambers Global*
 - Capital Markets: Derivatives
 - USA, 2018–2021
 - Capital Markets: Derivatives: Mainly Regulatory
 - USA, 2020–2021

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- *Chambers USA*
 - Capital Markets: Derivatives, 2017–2021
 - Capital Markets: Derivatives: Mainly Regulatory, 2018–2021
- JD Supra Reader's Choice - Top Author
 - Banking/Financial Services Industry, 2016
- The Legal 500 United States
 - Recommended Attorney, 2013, 2018, 2020–2021

News

- Katten Attorneys Listed in *The Best Lawyers in America*® (August 19, 2021)
- Coronavirus (COVID-19) Resource Center (August 10, 2021)
- Katten Receives High Marks in Derivatives, M&A and Securitization in The Legal 500 United States 2021 Guide (June 10, 2021)
- Katten Boosts Rankings in *Chambers USA* 2021 (May 20, 2021)
- Katten Praised by *Chambers Global* in Banking & Finance, Derivatives, Hedge Funds and Securitisation (February 19, 2021)
- Katten Attorneys Distinguished as Top Legal Talent in the 2021 *Best Lawyers in America* and *Best Lawyers: Ones to Watch* Lists (August 20, 2020)
- Katten Named Top-Tier Firm in Structured Finance and Securitization by The Legal 500 United States 2020 Guide (June 16, 2020)
- Katten Rated Top Law Firm by *Chambers USA* 2020 (April 23, 2020)
- *Chambers Global* Ranks Katten in Derivatives and Securitisation (February 13, 2020)
- Katten Lauded Top Ranked Law Firm by *Chambers USA* 2019 (April 25, 2019)

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- *Chambers Global* Praises Katten Attorneys in Financial Services, Trusts & Estates (February 21, 2019)
- Katten Distinguished by *The Legal 500 United States* (June 14, 2018)
- Katten Rated as Leading Law Firm by *Chambers USA* 2018 (May 3, 2018)
- Katten Attorneys Lauded by *Chambers Global* 2018 (February 21, 2018)
- Katten Represents LedgerX, First Federally Approved Exchange and Clearing Housing for Digital Currency Derivatives (July 24, 2017)
- Katten Recognized as Leading Law Firm by *Chambers USA* 2017 (May 30, 2017)
- 79 Katten Attorneys Selected for *Best Lawyers in America*® 2017 (August 15, 2016)
- 91 Katten Attorneys Recognized in *Best Lawyers in America*® 2016 (August 17, 2015)
- 85 Katten Attorneys Named to *Best Lawyers in America*® 2015 (August 18, 2014)
- Partner Kevin Foley Comments on FCM Regulations in *International Financing Review* (January 22, 2014)
- Partner Kevin Foley Comments on CFTC Communications Requirement in FinOps Report (January 14, 2014)
- 83 Katten Attorneys Lauded in *Best Lawyers in America*® 2014 (August 15, 2013)
- Six Katten Practices and Twenty-Four Attorneys Distinguished by *The Legal 500 United States* 2013 (June 4, 2013)
- 80 Katten Attorneys Named to *Best Lawyers in America*® 2013 Guide (August 24, 2012)
- Katten Attorney Kevin M. Foley Receives Achievement Award from the Futures Industry Association (April 13, 2012)
- 75 Katten Attorneys Named to *Best Lawyers in America*® 2012 Guide (September 12, 2011)

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- Five Katten Practices Recognized by *Legal 500* in 2011 US Edition (June 16, 2011)
- 70 Katten Attorneys Named to *Best Lawyers in America*® 2011 (August 9, 2010)
- 66 Katten Attorneys Named to 2010 List of *Best Lawyers in America*® (August 5, 2009)
- 50 Katten Attorneys Named to 2009 List of *Best Lawyers in America*® (September 23, 2008)
- 46 Katten Attorneys Named to 2008 List of *Best Lawyers in America*® (October 31, 2007)

Publications

- Foreign Listed Stock Index Futures and Options Approval Chart March 2021 (March 25, 2021)
- The CFTC Adopts Comprehensive Amendments to Its Bankruptcy Rules (February 2, 2021)
- CFTC Adopts New Rules on Position Limits for Derivatives (November 16, 2020)
- CFTC Adopts New Position Limits Requirements (October 16, 2020)
- A Promise Made, a Promise Kept: CFTC Adopts Final Cross-Border Swaps Rules Largely as Proposed (August 18, 2020)
- A Friendly Reminder: CFTC Staff Encourages Exchanges, Futures Brokers and Clearinghouses to Ensure Their Risk Controls and Disclosures Address COVID-19-Related Market Volatility and Negative Prices (May 13, 2020)
- More Than a Refresh but Much Less Than A Substantial Overhaul: The CFTC Proposes Comprehensive Amendments to Its Bankruptcy Rules (April 29, 2020)

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- Foreign Listed Stock Index Futures and Options Approval Chart April 2020 (April 28, 2020)
- The CARES Act: An Overview of Programs Impacting Financial Businesses (March 27, 2020)
- Business Not as Usual – COVID 19: US Securities and Derivatives Industry Regulators Provide Relief and Guidance (March 19, 2020)
- The CFTC Proposes New Rules Walking Back Its Maximalist Cross-Border Swaps Regulatory Approach (March 4, 2020)
- Have We Finally Reached Our Limits? CFTC Proposes New Position Limits Rules in Effort to End Decade-Long Saga (February 14, 2020)
- Foreign Listed Stock Index Futures and Options Approval Chart October 2019 (October 29, 2019)
- Foreign Listed Stock Index Futures and Options Approval Chart September 2019 (September 11, 2019)
- National Futures Association Proposes Overhaul of its Member Requirements for the Supervision of Branch Offices and Guaranteed Introducing Brokers (July 2, 2019)
- CFTC Finalizes Aggregation Rules and Re-Proposes Position Limits Rule (December 19, 2016)
- CFTC Re-Proposes Capital Rules for Swap Dealers (December 19, 2016)
- CFTC Approves Supplemental Proposal to Regulation AT (November 10, 2016)
- CFTC Proposes To Allow Designated Contract Markets and Swap Execution Facilities To Recognize Certain Hedging and Spread Positions From Speculative Position Limits (June 6, 2016)
- Proposed CFTC Regulation To Impact Algorithmic Trading and Traders (December 15, 2015)
- CFTC Proposes Revisions to Pending Aggregation Rules (September 28, 2015)
- China Regulator Proposes to Permit Designated Domestic Futures Contracts To Be Traded by Foreigners (January 23, 2015)

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- CFTC Issues Updated Relief for Cross-Border Trading of Swaps on Qualifying Multilateral Trading Facilities in the European Union (April 24, 2014)
- CFTC Issues Relief for Cross-Border Trading of Swaps on Qualifying Multilateral Trading Facilities in the European Union (February 14, 2014)
- CFTC Proposes Revised Position Limit Rules (November 12, 2013)
- CFTC Proposes Revised Aggregation Rules (November 7, 2013)
- CFTC Issues Final Guidance on Cross-Border Application of Swap Regulations (August 16, 2013)
- CFTC Approves Final Rule Requiring Recording of Oral Communications (April 26, 2013)
- CFTC Approves Final Rule Requiring Recording of Oral Communications (December 20, 2012)
- The CFTC's Proposed Guidance on Cross-Border Swap Regulation and Proposed Exemptive Order (July 10, 2012)
- CFTC and SEC Adopt Final Rules Further Defining "Swap Dealer," "Major Swap Participant" and "Eligible Contract Participant" (May 10, 2012)
- CFTC Adopts Significant Changes to CPO and CTA Registration and Compliance Requirements (February 14, 2012)
- MiFID II—How It Affects Proprietary Traders and Algorithmic Traders (October 31, 2011)
- Guidelines from European Regulator Focus on High Frequency and Algorithmic Trading Obligations (August 18, 2011)
- CFTC, SEC Provide Dodd-Frank Relief for Effective Date Concerns (June 20, 2011)
- CFTC Proposes Substantial Amendments to Speculative Position Limits (February 22, 2011)
- CFTC and SEC Propose Definitional Tests for Swap Dealers and Major Swap Participants (December 17, 2010)
- CFTC Adopts Interim Final Swap Reporting Rule (October 6, 2010)

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- Wall Street Transparency and Accountability Act of 2010 Introduces Extended Period of Regulatory Uncertainty (August 4, 2010)
- CFTC Issues Advisory Regarding Offer and Sale of Foreign Security Futures Products to US Persons (June 16, 2010)
- Financial Services Regulatory Reform Legislation Moves Forward (May 27, 2010)
- CFTC Proposes Position Limits and Exemptions for Certain Energy Contracts (January 27, 2010)
- Treasury Proposes Legislation Overhauling Regulation of Over-the-Counter Derivatives (August 13, 2009)
- US Treasury Proposes Regulatory Framework for OTC Derivatives (May 15, 2009)
- CFTC Staff Issues Advisory Regarding Recordkeeping Requirements (February 10, 2009)
- SEC Approves Credit Default Swap Exemptions (January 16, 2009)
- OFAC Issues Guidance Regarding Scope of OFAC Compliance Programs (November 7, 2008)
- *Corporate & Financial Weekly Digest* (Weekly) | *Author*

Presentations and Events

- Katten's Annual Financial Markets Regulation Crystal Ball — A Look Back at 2020 and a Look Forward to 2021 (February 24, 2021) | *Panelist*
- Positioning for the CFTC's New Position Limits Rules (November 17, 2020) | *Speaker*
- Why Overhaul CFTC Part 190 Bankruptcy Rules Now – A Conversation with the CFTC's Robert Wasserman (June 16, 2020) | *Presenter*
- Security Futures – The Incredible Potentially Morphing Financial Instrument (April 30, 2020) | *Speaker*

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- Have We Finally Reached Our Limits? CFTC Proposes New Position Limits Rules in Effort to End Decade-Long Saga (February 14, 2020) | *Speaker*
- Hear It Directly from the Source (February 4, 2020) | *Moderator* | *Hear It Directly from the Source: Katten Attorneys Sit Down with the CFTC's DSIO Director and NFA's New OTC Derivatives Head*
- CFTC Regulatory and Enforcement Agenda Webinar (September 24, 2019) | *Presenter*
- 41st Annual FIA Law and Compliance Division Conference (May 8–10, 2019) | *Moderator* | *The ABCs of FCMs*
- Beyond Bitcoin (May 17, 2018) | *Co-Presenter*
- 40th Annual Law & Compliance Division Conference (May 2–4, 2018) | *Speaker* | *Financial and Other Reporting Obligations*
- 39th Annual FIA Law & Compliance Division Conference on the Regulation of Futures, Derivatives and OTC Products (May 3–5, 2017) | *Speaker* | *The Ins and Outs of Customer Asset Protection*
- Just in Time for Summer: Position Limits, Regulation AT and Defend Trade Secrets Act (June 7, 2016) | *Panelist*
- Understanding FinCEN's New Customer Due Diligence Obligations (May 19, 2016) | *Presenter*
- 2015 FIA Law and Compliance Conference (June 22–23, 2015) | *Panelist* | *The JAC Margin Handbook - A User's Guide and a Blueprint For Revisions*
- 30th Annual Futures and Options Expo 2014 (November 5, 2014) | *Speaker* | *The Home Stretch: Implementing Customer Fund Protections*
- 36th Annual Law & Compliance Conference on the Regulation of Futures, Derivatives and OTC Products (May 7–9, 2014) | *Panelist* | *Implementation of New Customer Protection Rules*
- The Year Ahead: Navigating the Regulatory Shoals (February 26, 2014) | *Presenter*

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- IDX International Derivatives Expo (June 25–26, 2013) | *Panelist* | *Client Asset Protection: Are We There Yet?*
- The Changing World of Cross-Border Derivatives: Dodd-Frank, EMIR and What They Mean for You (October 6, 2011) | *Panelist*
- Financial Regulatory Reform: Current Developments (December 3, 2009) | *Speaker*
- Current Status Report on the Redesign of the Architecture of Financial Regulation (October 27, 2009) | *Presenter*