

Confirming a Negative: CFTC Staff Issue an Advisory Clarifying When Foreign-Organized Entities Are Trading and Brokering Digital Asset Derivatives Outside of the Commission's Cross-Border Jurisdiction

Published by *The International Journal of Blockchain Law*

June 2025

Based on a [recent Katten advisory](#), this article discusses a May 21 [advisory letter](#) issued by the Commodity Futures Trading Commission (CFTC) that clarifies the Staff's interpretation of the agency's jurisdiction over foreign-organized entities trading digital asset derivatives outside the United States. The advisory letter marks a return to well-understood jurisdictional tests for swaps, focusing on where an entity is organized and where its senior management directs and controls operations (the "nerve center" test), rather than on broader operational touch-points such as the location of personnel, servers or beneficial owners.

["Confirming a Negative: CFTC Staff Issue an Advisory Clarifying When Foreign-Organized Entities Are Trading and Brokering Digital Asset Derivatives Outside of the Commission's Cross-Border Jurisdiction,"](#) *The International Journal of Blockchain Law*, June 2025

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Daniel J. Davis
+1.202.625.3644
daniel.davis@katten.com



Carl E. Kennedy
+1.212.940.8544
carl.kennedy@katten.com



Alexander C. Kim
+1.212.940.6535
alexander.kim@katten.com

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2025 Katten Muchin Rosenman LLP.

All rights reserved. Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at [katten.com/disclaimer](https://www.katten.com/disclaimer).