

First Independent Swap Data Repository Is Granted CFTC Registration

Case Study

Financial Markets and Funds attorneys Carl Kennedy, James Brady, and Gary DeWaal led the team successfully guiding KOR — a trade data processing and management platform for derivatives markets — in its registration application with the Commodity Futures Trading Commission (CFTC).

The approval marked several firsts, the first registration for an independent and cloud-native swap data repository (SDR); the CFTC's first SDR registered in eight years; and the first SDR registration approval by the CFTC since the agency amended its SDR rules in 2020. The registration enabled KOR to provide full SDR service for all asset classes and client segments.

KOR claims it has created a uniquely modern, user friendly approach to complying with reporting obligations.

While trade reporting has been ripe for innovation for many years, there were few if any alternatives to current systems. Enacted in 2010, the Dodd–Frank Wall Street Reform and Consumer Protection Act aimed to stave off another financial crisis by providing transparency in the derivatives market and supplying regulators with market insights. But because established reporting platforms service the market using systems often more specialized for certain client segments, there is a steep learning curve for those new to trade reporting or seeking to move to an alternative. Reporting options are particularly onerous for smaller organizations or firms with emerging products finding themselves having to report for the first time or infrequently.

With a team of skilled and creative financial markets practitioners, Katten helped steer KOR's application toward CFTC approval for a reporting registration, a first step in modernizing trade reporting across the globe. KOR says its approach is to redefine the concept of a trade repository from the ground up, creating a user-friendly platform that demystifies CFTC and Securities and Exchange Commission (SEC) reporting obligations while helping to satisfy emerging crypto requirements. KOR's stated objective is to help organizations reach a high level of compliance, with as little effort as possible, so that organizations can focus less on reporting and more on their core businesses.

To help KOR achieve its goal, Katten leveraged its experience representing innovative infrastructure providers to guide KOR through the application process, review materials and navigate roadblocks. Katten's approach capitalized on its deep bench of attorneys who know how to work with regulators when a new entrant brings new technologies and consequently raises novel legal issues, making the case that KOR's mission is not only compliant, but helps regulators with their mission to encourage efficiency and ensure financial integrity.

On March 30, 2022, the CFTC approved KOR Financial for the regulatory reporting of swaps. The approval meant that KOR's platform was live and testing well before new swap reporting rules were set to go into effect on December 5, 2022.

KOR's likely impact on the market is only just beginning to be felt. KOR promotes that its modern, cloud-native technology is designed to improve storage capabilities, data quality, and analytics at increased speed and scale. Given that reporting is already complicated, KOR believes that with its cloud-based approach and operational know-how, reporting counterparties can more easily meet reporting obligations with less time, effort and money. Now that Katten has helped KOR with its initial approval and legal structure, KOR — with Katten's continued assistance — is applying to become an SEC-approved Security-Based-Swaps Data Repository (SBSDR) and is looking to further expand internationally.