Seth Messner and Glenn Miller Discuss SEC Data Center Securitization Guidance and a $500 Billion Financing Initiative

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Structured Finance and Securitization Partner and Washington, DC Managing Partner Seth Messner and Affordable Housing and Community Development Practice Co-Chair Glenn Miller spoke with CNBC about recent Securities and Exchange Commission (SEC) staff guidance on data center securitizations and its potential application to the $500 billion financing initiative recently announced by a leading technology company and large private credit providers.

Seth, who co-leads Katten's data center group with Glenn, explained that the latest SEC guidance gets around Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) regulations that were put in place after the 2008 financial crisis, which was ignited by securitizations of poorly underwritten residential mortgages. As reported by CNBC, the guidance grew out of a request that Latham & Watkins made to the SEC. As Seth described it, Latham asked "the SEC to tell them that data center securitizations aren't [asset-backed securities] and therefore aren't subject to the risk retention rules under Dodd Frank." "The SEC basically agreed," he said.

Seth noted that, while it is not yet clear whether the company's agreements with various financial firms are designed specifically for securitization or for other types of credit facilities, the SEC guidance sounds applicable to that situation. "If they are planning to use securitization, and they are considering using the company's compute … that sounds very similar to what Latham was describing," he said.

The SEC guidance, issued in July, is a staff opinion rather than new rule-making or legislation, but attorneys expect it to incentivize more data center financing by removing restrictions associated with a particular definition of asset-backed securities known as Exchange Act ABS. Data center securitizations can avoid risk retention rules, in the view of the SEC and Latham, because they are not considered to be "self-liquidating assets," such as mortgages.

"Nvidia financing initiative follows SEC guidance that takes sponsors off the hook for data center investments," CNBC, August 17, 2026.

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