Katten

NEWSLETTER

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Katten's Financial Markets and Funds Quick Take is a monthly newsletter highlighting key noteworthy developments potentially affecting financial markets and funds.

To read more issues of Katten's Financial Markets and Funds Quick Take, please click here.

CFTC Launches Listed Spot Crypto Trading Initiative

By Carl Kennedy, Daniel Davis, Alexander Kim

The CFTC has launched its Listed Spot Crypto Trading Initiative, which aims to establish a framework for retail trading of leveraged, margined, or financed spot crypto asset contracts on CFTC-registered designated contract markets (DCMs). The initiative would utilize existing authority under the Commodity Exchange Act (CEA), which requires that retail trading of commodities with leverage, margin or financing must be conducted on DCMs. *Read about the Listed Spot Crypto Trading Initiative.*

White House Charts New Course for Digital Asset Policy

By Daniel Davis, Michael Didiuk, Alexander Kim

The White House released its comprehensive Digital Asset Policy Report, fulfilling a mandate from Executive Order 14178 signed by President Donald Trump on January 23. The order established the President's Working Group on Digital Asset Markets within the National Economic Council and gave it 180 days to develop regulatory and legislative recommendations that would advance pro-innovation digital asset policies. *Read about the administration's digital asset and technology priorities.*

Hitting the Snooze Button: CFTC Staff Issues Relief Intended to Reduce Burdens of Swap Data Notification Requirements

By Carl Kennedy, Robert Bourret

Staff from the Commodity Futures Trading Commission's (CFTC) Division of Market Oversight issued No-Action Relief Letter 25-25 on July 31, to help ease compliance burdens placed on reporting counterparties in meeting the agency's current swap data error reporting requirements. CFTC staff cited that numerous swap data error notifications filed with the agency have "not been utilized as originally intended" following the CFTC's adoption of 2020 amendments to its swap data reporting rules. *Read about swap data error reporting.*

CFTC Issues No-Action Relief for SEFs on Order Book Obligations

By Carl Kennedy, Caron Song

In a marked departure from its position since 2013, the CFTC issued No-Action Letter 25-24 on July 30, stating that it will not recommend enforcement action against a swap execution facility (SEF) that does not offer a central limit order book, as required under CFTC Regulation 37.3(a)(2), with respect to swap transactions that are not subject to the trade execution requirement under Section 2(h)(8) of the Commodity Exchange Act (CEA). *Read SEF order book obligations.*

Risk.net Discusses CFTC Changes for CTA Regulations With Nathaniel Lalone

Risk.net spoke with Partner Nathaniel Lalone regarding the CFTC's recent withdrawal of its 2021 advisory (21-19), which was seen by certain market participants as seeking to broaden the definition of SEFs to include certain technology vendors and commodity trading advisers (CTAs). *Read about Nate's comments.*

Liquid Staking Clears the Howey Hurdle

By Daniel Davis, Michael Didiuk, Alexander Kim

The Securities and Exchange Commission's (SEC) Division of Corporation Finance issued a staff statement expressing its views that certain liquid staking activities fall outside the federal securities laws. This guidance follows recent regulatory developments around digital asset staking services. For

example, in May 2025, the Division issued guidance on protocol staking that covered self-staking, custodial arrangements, and third-party staking. *Read about the Division's liquid staking framework.*

Broker-Dealer Liability Risks in Elder Financial Exploitation Cases

By David Goldberg, Susan Light, Patrick Smith, Leigh Brissenden

Despite limited regulatory requirements to intervene, broker-dealers face exposure to discipline and liability claims when elderly clients fall victim to financial exploitation. In an environment of increased financial fraud, senior citizens are particularly vulnerable customers. The financial exploitation of elderly investors poses significant compliance and litigation risks for broker-dealers, who are increasingly drawn into after-the-fact disputes seeking to allocate responsibility for losses incurred in such frauds. *Read about Financial Industry Regulatory Authority's (FINRA) guidance.*

White House Reveals AI Action Plan

By Alexander Kim, Trisha Sircar

On July 23, 2025, the White House released "Winning the AI Race: America's AI Action Plan," in accordance with President Trump's January executive order on Removing Barriers to American Leadership in AI. As outlined by the White House, winning the AI race will usher in a new golden age of human flourishing, economic competitiveness, and national security for the American people. *Read about America's AI Action Plan.*

Further Developments Regarding CAT Requirements

Partners James Brady and Michael Lohnes and Associate Nicholas Gervasi continue to track the latest developments regarding Consolidated Audit Trail (CAT) reporting, including the US Court of Appeals for the Eleventh Circuit recently decision vacating the SEC's 2023 funding order for CAT, FINRA efforts to align with the SEC, and US District Court for the Western District of Texas granted the SEC's motion to stay a class action by industry groups that challenges the constitutionality and tracking capabilities of CAT.

- "A CAT-astrophic Funding Model? Court Sends SEC Back to the Drawing Board," August 6, 2025

- "FINRA Aligns CAT Timestamp Requirements with SEC Relief and Extension to 2030," July 24, 2025
- "Texas Court Stays CAT Class Action, But Reporting Must Continue," July 15, 2025

EU/UK

FCA Opens UK Retail Access to Crypto Exchange Traded Notes

By Carolyn Jackson, Nathaniel Lalone, Neil Robson, Christopher Collins, Ciara McBrien, Sara Portillo

On August 1, the Financial Conduct Authority (FCA) issued a press release announcing that UK retail consumers will soon be able to access crypto exchange-traded notes (cETNs) admitted to trading on UK-recognized investment exchanges (RIEs). The FCA's decision follows a period of market evolution and regulatory engagement. *Read about cETNs.*

UK Ancillary Activities Exemption Proposals Published for Commodity Derivatives and Emission Allowances

By Carolyn Jackson, Nathaniel Lalone, Christopher Collins, Ciara McBrien

The FCA recently published a consultation setting out its proposed approach to revising the ancillary activities test (AAT), which forms part of the ancillary activities exemption (AAE) from investment firm authorization under the Markets in Financial Instruments Directive (MiFID II). Separately, HM Treasury has published a near-final statutory instrument (SI) that will amend the Financial Services and Markets Act 2000 Order 2001 and confer rule-making powers on the FCA in respect of the AAE. *Read about the AAT revisions.*

EU Initiates Renewal of UK Adequacy Decision Following the UK's Adoption of the Data (Use and Access) Act 2025

By Anita Hodea

On July 22, the European Commission announced that it had launched the process to renew the adequacy decision for the UK and confirmed that the UK's updated data protection framework remains closely aligned with EU standards. This follows the UK's adoption of the Data (Use and Access) Act 2025 (DUAA) on June 19. *Read about the adequacy decision.*

EU AI Act Compliance Deadline of August 2 looming for General Purpose AI Models

By Trisha Sircar

The European Union's Artificial Intelligence Act (the EU AI Act) is the first comprehensive artificial intelligence (AI) regulation to address AI technologies across the globe. The EU AI Act was proposed in April 2021 and published in the *Official Journal of the European Union* on July 12, 2024. The EU AI Act officially went into effect on August 1, 2024. *Read about the phased timeline for implementation and compliance.*

ICYMI

Here's a look back at recent client advisories from Katten.

"SEC Approves In-Kind Creation and Redemption for Crypto Exchange-Traded Products," August 11, 2025

"Tokenization of Real-World Assets: Opportunities, Challenges and the Path Ahead," August 7, 2025

"Payment Stablecoins Get “Smart” (or GENIUS-like)," July 31, 2025

Partners Wendy Cohen (vCard), Stephen Morris (vCard) and Jonah Roth (vCard) serve as co-editors of Katten Financial Markets and Funds Quick Take.

CONTACTS

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

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

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

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

Michael S. Didiuk
+1.212.940.6677
michael.didiuk@katten.com

Robert Bourret
+1.312.902.5568
robert.bourret@katten.com

David L. Goldberg
+1.212.940.6787
david.goldberg@katten.com

Susan Light
+1.212.940.8599
susan.light@katten.com

Patrick M. Smith
+1.310.788.4444
patrick.smith@katten.com

Leigh Brissenden
+1.312.902.5308
leigh.brissenden@katten.com

James M. Brady
+1.312.902.5362
james.brady@katten.com

Michael J. Lohnes
+1.312.902.5341
michael.lohnes@katten.com

Nicholas Gervasi
+1.212.940.8562
nicholas.gervasi@katten.com

Carolyn H. Jackson
+44 (0) 20 7776 7625
carolyn.jackson@katten.co.uk

Nathaniel Lalone
+44 (0) 20 7776 7629
nathaniel.lalone@katten.co.uk

Neil Robson
+44 (0) 20 7776 7666
neil.robson@katten.co.uk

Christopher Collins
+44 (0) 20 7776 7662
christopher.collins@katten.co.uk

Ciara Watson
+44 (0) 20 7770 5231
ciara.watson@katten.co.uk

Anita Hodea
+44 (0) 20 7770 5239
anita.hodea@katten.co.uk

Cathleen A. Booth
+1.312.902.5336
cathleen.booth@katten.com

Christopher T. Shannon
+1.312.902.5322
chris.shannon@katten.com

Lance A. Zinman
+1.312.902.5212
lance.zinman@katten.com

Wendy E. Cohen
+1.212.940.3846
wendy.cohen@katten.com

Stephen R. Morris
+1.212.940.6654
stephen.morris@katten.com

Jonah Roth
+1.312.902.5409
jonah.roth@katten.com

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