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.

After the 43-Day Shutdown: What CFTC Market Participants and Registered Entities Should Expect

By Carl Kennedy

The federal government's 43-day shutdown — which ended with a late-evening November 12 funding bill and next-day return to duty for furloughed staff — imposed a near-total pause on the Commodity Futures Trading Commission's (CFTC) routine functions. During the lapse, the CFTC ceased the vast majority of its operations. Only a minimal essential workforce remained to address true emergencies posing imminent threats to life or property. As a result, applications, staff consultations, routine oversight and ongoing initiatives were largely frozen, leaving a sizable backlog to work through as normal operations resume. *Read about the CFTC's ramping up efforts*.

Are You Using 'Finfluencers': Practical Guidance for CFTC-Registered Derivatives Intermediaries and Exchanges

By Carl Kennedy

Retail participation in futures, forex, and swaps has accelerated markedly in recent years, driven by low-cost access, mobile platforms, and growing interest in crypto-referenced instruments, event contracts and micro-sized derivatives. This phenomenon marks the latest turn in a decades-long arc: retail derivatives first took off in the late 1990s with the advent of online retail forex and derivatives

education providers, as internet brokers, margin access and platforms democratized trading that was previously reserved for institutions. Today, multiple intermediaries and exchanges expressly court retail users, and social media has become a primary channel for discovery and education. Against this backdrop, "finfluencers" — social media influencers who promote and market financial services and products — have emerged as powerful promoters and educators, capable of compressing complex concepts into viral short-form content. *Read about the risks associated with using finfluencers*.

Politico Talks New CFTC Nominee With Carl Kennedy

Partner and Financial Markets and Regulation Co-Chair Carl Kennedy spoke with Politico about the new Commodity Futures Trading Commission (CFTC) chair nominee Mike Selig. Carl noted that this nomination makes sense because Selig has well-rounded experience outside of cryptocurrency. He mentions that Selig has come "across a whole gamut of CFTC issues." *Read about Carl's comments to Politico*.

Evaluating Nasdaq Tokenization Rule's Potential Impact

By James Brady

On September 8, the Nasdaq Stock Market LLC filed a proposed rule with the US Securities and Exchange Commission (SEC) that could transform how stock trades are settled in the US. The proposed rule would enable the settlement of tokenized equity securities and exchange-traded products using blockchain technology. Specifically, it would allow investors to choose whether to settle trades in the traditional digital form or a tokenized blockchain form on a trade-by-trade basis, with the first token-settled trades potentially occurring by the end of the third quarter of 2026. *Read Katten's article published by Law360*.

SEC Chairman Calls for a Fairer Wells Process: Reinforcing Due Process and Transparency in Enforcement

By Susan Light, Alexander Kim

SEC Chairman Paul Atkins recently spoke at Fordham Law School for the "25th Annual A.A. Sommer, Jr. Lecture on Corporate, Securities, and Financial Law" as the keynote address. He

publicly raised concerns about the Wells process since becoming chair. We sincerely hope that all regulatory bodies will take heed to amend their processes to increase fairness and transparency, and promote robust dialogue, rather than engaging in gamesmanship by keeping confidential material in investigative files. *Read about Atkins' comments on the Wells process*.

SEC Chairman Prioritizes Public Offering Reforms; Trump Signals Renewed Scrutiny of Proxy Advisers

By Richard Marshall

Recent developments indicate a dual focus on regulatory reform for public companies, with the SEC Chairman Paul Atkins prioritizing public offering reforms and President Donald Trump signaling renewed scrutiny of proxy advisers. In a speech on October 9, Chairman Atkins outlined priorities to encourage public offerings. *Read about the proposed reforms*.

Regulatory Compliance in Leveraged ETF Sales Practices

By Michael Diver, Richard Marshall, Alex San Martin

The Wall Street Journal reported last week that "Popular Leveraged Funds Shock Investors With Huge Losses." It is important to understand how to offer such instruments in a manner consistent with regulatory expectations. Leveraged ETFs are funds that use derivatives or internal borrowing to magnify the daily performance of an underlying asset, such as a stock or index. Their popularity increased with the approval of leveraged single-stock ETFs in 2022 as retail investors sought outsized gains during market rallies. However, their daily reset mechanism and compounding effects make them highly volatile and unsuitable for most long-term holding strategies. *Read about leveraged ETF compliance*.

FINRA Case Involving Gifts and Entertainment

By Richard Marshall

On October 21, the Financial Industry Regulatory Authority (FINRA) filed a settled enforcement action involving allegedly improper gifts and entertainment in connection with sales of mutual fund shares. The $10 million fine was particularly noteworthy. *Read about FINRA's settlement*.

State Regulators Announce Enforcement Priorities

By Richard Marshall

On October 16, the North American Securities Administrators Association (NASAA) published the enforcement priorities for state securities regulators. *Read about key highlights from the 2025 NASAA Enforcement Report*.

EU/UK

Keeping it Short: FCA Consults on Implementation of Streamlined UK Short Selling Regime

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

On October 28, the Financial Conduct Authority (FCA) published a consultation paper (CP25/29) proposing significant changes to the UK's short-selling regulatory framework. CP25/29 seeks to introduce a new Short Selling Sourcebook within the FCA Handbook, replacing the current regime under the EU-derived UK Short Selling Regulation (UK SSR). The proposals follow HM Treasury's (HMT) Short Selling Regulations 2025 (SSR 2025), which established the legislative framework for the FCA's new rules and broadly replicated existing short-selling emergency powers, while making key structural changes to the regime. *Read about the UK Short Selling Regulation*.

(mis)Conduct, Money & Reputation | Woodford, the FCA and the Staley Effect

Woodford's appeal against a multimillion-pound fine and ban by the FCA is under scrutiny. In this episode, Financial Markets and Funds Partner Neil Robson and David Masters of reputation specialists Lansons/Team Farner ask what the tribunal could uncover — and whether his reputation can ever recover. Neil and David examine how cosmetic fixes created only the illusion of liquidity, why the regulator called his understanding of his role "defective and unreasonably narrow," and how the tribunal could reveal private emails, board minutes and correspondence that reshape his narrative — just as Jes Staley's failed appeal did. *Listen to the (mis)Conduct, Money & Reputation podcast*.

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