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.

SEC Risk Alert on the Advisers Act Marketing Rule

By Richard Marshall

On December 16, the Securities and Exchange Commission (SEC) published a risk alert on the adviser marketing rule. This is the first risk alert published by the SEC in over a year. It "addresses observations regarding advisers' satisfaction of disclosure requirements and oversight and compliance practices under the Testimonials and Endorsements Provisions, as well as advisers' due diligence and disclosure requirements under the Third-Party Ratings Provisions." Stay tuned for Katten's detailed summary of this important risk alert, coming soon.

Speech by Director of Division of Investment Management Signals Key Priorities

By Richard Marshall

On December 2, Brian Daly, the new Director of the Division of Investment Management for the Securities and Exchange Commission (SEC), delivered an important speech on his priorities. The speech began by noting that he is dedicated to listening to the industry, stating that he is "deeply interested in what the industry has to say, how investors feel, and how the public perceives our proposals." *Read about the Division's four priorities.*

SEC Extends Relief Allowing Brokers to Rely on Advisers for AML Compliance

By Richard Marshall

Earlier this year, the US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) adopted rules imposing anti-money laundering obligations on advisers and proposed additional rules that would mandate further anti-money laundering obligations on advisers. The compliance date for the previously adopted rule has been recently extended, as has consideration of the proposed amendments. *Read about the SEC's related no-action relief to brokers.*

New SEC Cybersecurity Rules Begin to Take Effect

By Richard Marshall

On May 16, 2024, the SEC unanimously approved amendments to Regulation S-P, which imposes new rules relating to cybersecurity breaches involving investment advisers and broker-dealers. Larger entities must comply with the new rules by December 3, 2025, while smaller entities must comply by June 3, 2026. The amendments to Regulation S-P added requirements compelling covered institutions to adopt written policies and procedures that are reasonably designed to detect, respond to, and recover from unauthorized access to or use of customer nonpublic personal information. *Read about the recovery or response program procedures.*

GENIUS ACT – Banking Regulators Prepare to Publish Proposed Rules

By Carl Kennedy, Daniel Davis, Christina Grigorian, Michael Didiuk, Alexander Kim

As disclosed by recent comments during Congressional hearings, publication of proposed regulations by the federal financial regulators (including the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration) implementing the Guiding and Establishing National Innovation for US Stablecoins Act (the GENIUS Act) is expected before December 31, 2025. *Read about the GENIUS Act.*

Consistent Definitions, Less Confusion: CFTC Divisions Streamline and Harmonize Cross-Border Swap Compliance

By Carl Kennedy, Daniel Davis, Carolyn Jackson

The US Commodity Futures Trading Commission (CFTC or Commission) has taken a significant step toward regulatory clarity and harmonization in the cross-border swaps market. The CFTC's Market Participants Division (MPD), Division of Clearing and Risk (DCR) and Division of Market Oversight (DMO, collectively with MPD and DCR, the Divisions) jointly issued No-Action Letter 25-42 (Letter 25-42) on December 9, which addresses longstanding inconsistencies in the definitions of "U.S. person" and "Guarantee" under the CFTC's Dodd-Frank Wall Street Reform and Consumer Protection Act's (the Dodd-Frank Act) cross-border swap framework. *Read about the CFTC's No-Action Letter.*

All's Well That Ends Well: The CFTC Amends Its Wells Notice Process and Other Rules of Practice for the Better

By Carl Kennedy, Matthew Kluchenek, Zachary Schmitz

For years, the CFTC has exercised broad discretion in investigating and prosecuting potential violations of the law, with its sanctions and penalties infrequently subject to challenge. The industry has long criticized this process as being opaque and lacking fairness. Joining the chorus of critics, CFTC Acting Chairman Caroline D. Pham has been vocal about her objections to the Commission's prior enforcement practices, emphasizing the need for higher standards of integrity, diligence and excellence in enforcement actions to maintain public trust. *Read about the Wells Notice process.*

State-Level Digital Asset Licensing: What to Watch as We Head Into 2026

By Carl Kennedy, Daniel Davis, Michael Didiuk, Alexander Kim

California, Louisiana, and Illinois have established comprehensive crypto licensing frameworks that mirror New York's BitLicense regime. With multiple rulemaking processes now established or soon-to-be adopted and critical compliance deadlines approaching in 2026 and 2027, firms that provide digital asset services to residents in these states should carefully evaluate whether their activities trigger compliance obligations and, to the extent that they do, begin preparations for applying for licenses and building comprehensive compliance programs well in advance of the statutory deadlines. *Read about state developments for crypto regulations.*

EU/UK

European Commission Announces Legislative Package to Advance EU Financial Market Integration

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

On December 4, the European Commission (EC) released a comprehensive package of measures aimed at removing barriers and enhancing the integration, efficiency, and competitiveness of European Union (EU) financial markets. This initiative is a key element of the Savings and Investments Union (SIU) strategy, intended to establish a genuinely integrated single market for financial services. *Read about the key measures from the EC's package.*

The NSI Act

By Edward Tran, Oliver Williams

Published by the *International Accountant*, the article examines the UK's National Security and Investment Act 2021, which grants the government the authority to review and intervene in acquisitions of control over UK entities and assets — regardless of deal value or investor nationality — particularly in sensitive sectors such as artificial intelligence (AI), defense, energy and data infrastructure. It outlines mandatory and voluntary notification triggers, review timelines, potential civil/criminal penalties (including void transactions and fines up to the higher of £10 million or 5 percent of global turnover), and the government's call-in, information-gathering and remedial powers. *Read Katten's article.*

FCA Publishes Final Rules on Systematic Internaliser Regime for Bonds and Derivatives and Matched Principal Trading by MTF Operators

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

On November 28, the Financial Conduct Authority (FCA) published a policy statement finalizing rules proposed in its July 2025 consultation paper. The reforms remove the Systematic Internaliser (SI) regime for bonds and derivatives, lift restrictions on matched principal trading by multilateral trading facility (MTF) operators, and reform the reference price waiver (RPW) for equity instruments. *Read about CP25/20*.

Improving UK Transaction Reporting: FCA Consults on Streamlined Framework

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

On November 21, the FCA published a consultation paper setting out proposed reforms to the UK transaction reporting regime. The consultation aims to reduce regulatory burdens, improve data quality, and enhance efficiency for UK financial market participants, including investment firms, trading venues, systematic internalisers, trade repositories and other regulated entities. *Read about proposed Regime changes*.

ESAs Publish List of Critical ICT Third-Party Service Providers under EU DORA

By Nathaniel Lalone, Ciara McBrien

On November 18, the European Supervisory Authorities (ESAs) published the first list of designated critical information and communication technology (ICT) third-party service providers (CTPPs) under the EU Digital Operational Resilience Act (DORA). The designations mark a major step in operationalising DORA's third-party risk regime, bringing key ICT service providers within a new, EU-level system of direct oversight. *Read about the ICT service providers*.

UK EMIR Update: Intragroup Exemption Consultations and Additional Q&As

By Carolyn Jackson, Ciara McBrien

On November 5, HM Treasury (HMT) published a draft statutory instrument, the Over-the-Counter-Derivatives (Intragroup Transactions) Regulations 2026 (draft SI), together with a policy note, and the UK FCA published a consultation paper, each proposing significant reforms to the UK European Market Infrastructure Regulation(EMIR) intragroup exemption framework for clearing and bilateral margin. *Read about proposed EMIR reform*.

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

- "CFTC Launches Digital Assets Pilot Program for Tokenized Collateral in Derivatives Markets;" *By Daniel Davis, Carl Kennedy, Matthew Kluchenek, Stephen Morris, Alexander Kim;* December 17, 2025
- "Pay Attention to Your Orphans;" *By Christian Kemnitz, Susan Light, Richard Marshall, Wayne Aaron, James Brady;* December 16, 2025
- "New York LLC Transparency Act Update;" *By Phillip Koh, Scott Vetri, Andrew Jagoda, Jonathan Byer, Walter Weinberg;* December 5, 2025
- "CFTC Staff Guidance Dispels Longstanding Legal Uncertainty Around an FCM's Use of Customer Securities to Secure Foreign Futures Exposures;" *By Stephen Morris, Nathaniel Lalone;* December 1, 2025
- "ILPA Updates Capital Call & Distribution Template: Implications for GPs and LPs;" *By Thomas Laurer, Edward Tran, Ryan Hansen, Phillip Koh, Elise Michael, Ciara McBrien;* November 26, 2025
- "SEC Division of Examinations Releases Its 2026 Examination Priorities;" *By Michael Diver, Wayne Aaron, Susan Light, James Brady, Michael Didiuk, Adam Bolter, Patrick Fallon;* November 25, 2025
- "So You Want to Apply to Become a CFTC-Registered Designated Contract Market (DCM)? Here's What You Should Know;" *By Carl Kennedy, Daniel Davis, James Brady, Robert Bourret, Alexander Kim;* November 20, 2025

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