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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 No-Action Reinstates Broad Registration Exemption for Institutional CPOs, Pending Further Action

By Christian Hennion

On December 19, the Staff of the CFTC's Markets Participant Division published a new no-action letter – CFTC Staff Letter 25-50 – which creates an exemption from commodity pool operator (CPO) registration for operators of privately-offered pools owned solely by "qualified eligible persons" (QEPs), as defined in CFTC rules. In particular, this exemption is available to CPOs registered as investment advisers with the SEC with respect to qualifying commodity pools reported in the adviser's Form PF filings. *Read about the registration exemption.*

Confidential Treatment for Advisers Act Filings: Process Changes and Practical Takeaways

By Adam Bolter, Michael Didiuk

Investment advisers may request confidential treatment of certain information in Form ADV and other filings under the Investment Advisers Act of 1940, which currently only the Securities and Exchange Commission (SEC) has the authority to grant or deny (or revoke). On December 29, 2025, the SEC amended its regulations to delegate to the Director of the Division of Investment Management the authority to grant, deny and revoke requests for confidential treatment of information in Form ADV. *Read about the process changes.*

Defining Small: SEC Proposal Could Shift Regulatory Burdens for Advisers and Investment Companies

By Adam Bolter, Michael Didiuk

On January 7, the SEC proposed amendments to raise the small entity thresholds for investment companies and advisers for purposes of the Regulatory Flexibility Act (RFA). The RFA requires the SEC, among other federal agencies, to conduct certain analyses, with the goal of minimizing the significant economic impact of rulemaking on small entities. *Read about the proposed change.*

SEC Clears Path for Tokenized Securities

By Wayne Aaron, Michael Didiuk, James Brady, Adam Bolter, Alex Kim, Nicholas Gervasi

In a flurry of activity, the SEC has taken decisive steps to integrate blockchain technology into traditional securities market infrastructure. First, in a media appearance, Chairman Paul Atkins publicly championed tokenization as the future of market modernization. Days later, the SEC's Division of Trading and Markets issued a no-action letter allowing the Depository Trust Company to launch a pilot program for tokenized securities. The SEC also opened proceedings on Nasdaq's proposal to trade tokenized stocks. Read about tokenized securities.

Marketing Rule Under the Microscope: New SEC Exam Findings

By Michael Didiuk, Adam Bolter, Richard Marshall

The SEC's Division of Examinations' staff issued a Risk Alert on December 16, highlighting additional observations on investment advisers' compliance with the amended Marketing Rule (Rule 206(4)-1) under the Advisers Act. The Risk Alert focuses on the use of testimonials, endorsements and third-party ratings in advertisements. *Read about the Risk Alert findings.*

SEC Staff Issues Helpful Guidance on Custodying Digital Asset Securities and Complying with the Customer Protection Rule

By Wayne Aaron, Michael Didiuk

On December 17, the SEC's Division of Trading and Markets issued a helpful statement to clarify its views on how a broker-dealer can meet its obligation pursuant to paragraph (b)(1) of Rule 15c3-3 of the Securities Exchange Act of 1934, with respect to digital or crypto assets that are securities that a broker-dealer may carry for the accounts of its customers. *Read about the SEC's guidance.*

Congratulations, CFTC Chairman Selig

By Michael Didiuk, Carl Kennedy, Dan Davis, Matt Kluchenek, Stephen Morris

Warm congratulations to the Honorable Michael Selig, who was confirmed by the Senate on December 18 (and sworn in on December 22) as the 16th Chair of the Commodity Futures Trading Commission (CFTC). This key appointment builds on the foundational work of Acting Chairman Caroline D. Pham to modernize the Commission and sets the stage for a clearer, innovation-forward regulatory posture in US derivatives and digital asset markets. *Read about Chairman Selig.*

Carl Kennedy Quoted in *Forbes* on Prediction Markets' Emergence as Financial Infrastructure

Carl Kennedy, partner and co-chair of Katten's Financial Markets and Regulation practice, was quoted in a *Forbes* article examining how prediction markets are rapidly moving from niche applications to embedded components of financial infrastructure. The article traced an extraordinary rise in market activity over the last two years and the regulatory clarity that has enabled broader institutional use. *Read about Carl's comments.*

FinCEN Finalizes 2028 Compliance Date for Adviser AML Programs

By Adam Bolter, Michael Didiuk

On December 31, 2025, the US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) finalized a two-year delay of the effective date for the anti-money laundering/counter-financing of terrorism (AML/CFT) program and suspicious activity reporting (SAR) filing requirements applicable to certain investment advisers. FinCEN has pushed the compliance date from January 1, 2026, to January 1, 2028. *Read about the FinCEN change.*

New Executive Order to Establish a National AI Policy Framework

By Paul DeMuro, Brandon von Kriegelstein

The White House has issued an executive order that establishes a national policy framework for artificial intelligence (AI). The order, titled "Ensuring a National Policy Framework for Artificial Intelligence," was signed on December 11, 2025. The Order prioritizes a "minimally burdensome" federal approach that is intended to promote and maintain US AI leadership. *Read about the executive order.*

EU/UK

FCA Finalizes Simplified UK Ancillary Activities Test

By Carolyn Jackson, Ciara Watson

On December 19, 2025, the Financial Conduct Authority (FCA) published a policy statement (PS25/24) finalizing the rules and guidance for the Ancillary Activities Test (AAT) under the Ancillary Activities Exemption (AAE). The revised AAT aims to reduce compliance costs and support the competitiveness of the UK commodity derivatives markets. *Read about AAT changes.*

HM Treasury and FCA Publish Comprehensive Cryptoasset Regulatory Framework

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

On December 16, 2025, the FCA published a comprehensive set of proposals to formally regulate the cryptoasset market. The FCA's proposals, detailed in three consultation papers (CP25/40, CP25/41, and CP25/42), were released a day after HM Treasury announced that it had laid the draft Financial Services and Markets Act 2000 (Cryptoassets) Regulations 2025 before Parliament. *Read about the framework.*

FCA Consults on Reforms to Client Categorization and Conflicts of Interest Rules

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

On December 8, 2025, the FCA published a consultation paper (CP25/36) proposing significant changes to the UK's client categorization rules in the FCA's Conduct of Business sourcebook

(COBS), as well as streamlining the FCA's conflicts of interest rules in the Senior Management Arrangements, Systems and Controls sourcebook (SYSC). The aim is to better distinguish clients who do not require retail protections, strengthen safeguards where protections are given up, and remove duplication in conflicts rules without changing substantive standards. *Read about the reforms.*

Christopher Collins Featured in *Law360* on UK Consumer Protection Priorities

Financial Markets and Funds Partner Christopher Collins offered insights to *Law360* on the UK's 2026 regulatory agenda, highlighting the government's challenge in keeping pace with rapidly evolving cryptoasset markets while navigating existing regulatory constraints. Chris stated, "As the landscape for cryptoassets explodes in the United States and other jurisdictions, we'll see the UK government and regulators continue to try and keep pace, while potentially being hamstrung by existing regulatory requirements." *Read about Chris's comments.*

ICYMI

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

- "UK and European M&A: Predictions for 2026," January 22, 2026
- "Retail Capital in Private Markets: Key ILPA Takeaways," January 14, 2026
- "Private Credit ETFs for Retail Investors: Yield Potential, Liquidity Risks and Regulatory Scrutiny," January 7, 2026
- "A Leaner CAT for 2026: SEC Mulls Proposed $55–$73 Million Cost Reduction," January 6, 2026

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