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.

Game Changer: CFTC Clarifies Sports Contracts Listing Standards and Seeks Input on Event Contracts More Generally

By Daniel Davis, Carl Kennedy, Eli Krasnow, Benjamin Levine, Alexa Warner

The Commodity Futures Trading Commission (CFTC) made waves on March 12 with two pivotal releases intended to shape the regulatory framework for prediction markets. In Letter No. 26-08, the CFTC's Division of Market Oversight (DMO) provided guidance to designated contract markets (DCMs) on the listing and trading of event contracts, with particular focus on sports-related prediction markets. *Read about the CFTC's prediction markets advisories.*

Know the Outcome? Don't Trade: CFTC Puts Prediction Markets on Notice

By Carl Kennedy, Matt Kluchenek, Zachary Schmitz, Alexander Kim

In an unusual move, the CFTC's Division of Enforcement issued an advisory on February 25, 2026, highlighting two disciplinary actions brought by Kalshi, a self-regulatory organization (SRO) and DCM, against two of its members involving the misuse of material nonpublic information (MNPI) and fraud in connection with prediction markets. *Read about prediction market insider trading allegations.*

Federal Reserve Researchers Find Prediction Markets Deliver Forecasting Value Comparable to Professional Surveys and Futures

By Daniel Davis, Carl Kennedy, Alexander Kim

A new working paper from the Board of Governors of the Federal Reserve's (Federal Reserve) Finance and Economics Discussion Series (FEDS) provides the most rigorous empirical validation to date of prediction markets as a tool for measuring macroeconomic expectations. The February 12 paper systematically compares prediction market-implied forecasts against established benchmarks, including the Bloomberg consensus estimates and data, the Federal Reserve Bank of New York's Survey of Market Expectations, and federal funds futures. *Read about the FEDS's paper.*

Chairman Selig and the CFTC Make the Case for Federal Jurisdiction Over Prediction Markets

By Daniel Davis, Carl Kennedy, Alexander Kim

The CFTC is not waiting for the courts to sort out who regulates prediction markets. In the span of a couple days, CFTC Chairman Michael S. Selig published an op-ed in *The Wall Street Journal* making the affirmative case for federal oversight of event contracts, and the Commission filed an *amicus* brief in *North American Derivatives Exchange, Inc. v. The State of Nevada* in the Ninth Circuit (*Nadex*) arguing that state gambling laws are preempted by the CFTC's exclusive jurisdiction over swaps and futures traded on DCMs. *Read about Chairman Selif's op-ed.*

Read additional Katten commentary on prediction markets:

- "*Law360*: Carl Kennedy and Daniel Davis Discuss Insider Trading Risks in Prediction Markets," March 3, 2026
- "Daniel Davis Featured in *The Dispatch* on the Growing Role of the CFTC," March 4, 2026
- "*Casino* Beats: Carl Kennedy Breaks Down the Future of Prediction Markets," March 9, 2026
- "*iGaming Business*: Carl Kennedy Weighs In on CFTC's Bold Defense of Prediction Markets," February 25, 2026
- "*Bloomberg* Quotes Carl Kennedy on Pushback the CFTC is Facing Over Prediction Markets," February 19, 2026

Michael Didiuk Discusses What the Push for Alternative Investments in Retail Channels Means for Institutional Investors

Financial Markets and Funds Partner Michael Didiuk spoke with *Chief Investment Officer* about how asset managers are increasingly looking to tap retail capital as fundraising for alternative investments has declined, and what this shift means for institutional limited partners. Mike noted, "Asset managers need to find new ways to broaden their investor base, and tapping into the large pool of capital from retail base is an attractive option, particularly given that expanding retail access to the alternative investments is top-of-mind under the current administration." *Read about Mike's comments.*

Tilting At Windmills: Defending Overconcentration Claims In Today's Index-Driven Equity Markets

By David Goldberg, Zachary Schmitz, Alexa Warner

"It is the part of a wise man to keep himself today for tomorrow and not venture all his eggs in one basket." Miguel de Cervantes, *Don Quixote* (Part II, Chapter 43) (1615). Sancho Panza dispensed this practical wisdom over 400 years ago, and his sage advice survives as a fundamental tenet of Modern Portfolio Theory. The notion that individual investors should maintain a diversified basket of securities is among the most broadly accepted principles of investing. *Read about ETF market dominance.*

Private Markets Go Public: Inside the SEC's Push for Retail Participation

By Kevin Broughel, Michael Didiuk, Adam Bolter, Zoe Lo

Expanding retail access to private markets and alternative investments is top of mind for the current administration and Congress. To this end, the Securities and Exchange Commission (SEC), under the leadership of Chairman Paul S. Atkins, has been exploring ways to facilitate the ability of individual investors to participate in the private markets. In furtherance of this policy shift and changing regulatory landscape, on March 4, 2026, the SEC's Division of Investment Management (Division) hosted a Private Markets Roundtable to discuss the retailization of private markets, with a focus on governance, valuation, liquidity and investor protection considerations. *Read about a potential shift in private markets.* *Read about Mike's comments in Private Equity Law Report.*

Common Ground: The SEC and CFTC Enter Historic Memorandum of Understanding Aimed at Harmonizing Regulatory Interests

By Daniel Davis, Michael Didiuk, Carl Kennedy, Matt Kluchenek, Zachary Schmitz, Adam Bolter, Ben Levine

Regulatory silos are coming down. In what marks the third joint announcement by the two primary US financial regulatory agencies in less than three months, the SEC and CFTC published a comprehensive framework for coordination and collaboration between the two Agencies. The March 11 Memorandum of Understanding (MOU) is meant to "guide coordination and collaboration between the two agencies to support lawful innovation, uphold market integrity, and ensure investor and customer protection." *Read about the MOU.*

SEC Enforcement Gets a Refresh: Updates to Enforcement Manual Focus on Transparency and Fairness

By Zachary Schmitz, Peter Wilson, Ben Levine, Casey McClaren

For the first time in nearly a decade, the SEC updated its Enforcement Manual, which has long served as the SEC Division of Enforcement's primary guide for conducting enforcement activities. The most practically significant updates include changes to how the Division initiates enforcement actions — including a more streamlined Wells process — as well as clearer cooperation considerations, more efficient settlement procedures, and enhanced criminal referral procedures. *Read about the Enforcement Manual's changes.*

Reimagining Securities Arbitration: FINRA Launches Broad Review of Arbitration Rules and Requests Comment on Modernization Initiative

By Wayne Aaron, David Goldberg, Christian Kemnitz, Susan Light, Zachary Schmitz

Responding to concerns raised and longstanding debates over how the Financial Industry Regulatory Authority's (FINRA) arbitration forum functions, on March 2, FINRA issued Regulatory Notice 26-06, seeking public comment on modernization of its arbitration rules, guidance and processes, as part of its broader "FINRA Forward" rule modernization program. The Notice signals that core features of FINRA arbitration are on the table for potential reform. *Read about the modernization initiative.*

FINRA Unveils Changes to Enforcement Program to Increase Transparency and Efficiency

By David Goldberg, Susan Light, Richard Marshall, Zachary Schmitz

FINRA announced changes to its enforcement program on March 2, as part of its broader "FINRA Forward" initiative. FINRA believes these "common-sense improvements," which follow similar updates from the SEC and CFTC to their enforcement programs, will advance three core objectives: transparency, efficiency, and greater opportunities for member firms to be heard. By enabling faster, more efficient resolution of issues, FINRA believes these enhancements will strengthen investor protection and market integrity, while expediting the identification of compliance issues and the mitigation of risks. *Read about FINRA's changes.*

EU/UK

UK Securitisation Framework: Regulators Consult on Further Streamlining

By Christopher Collins, Peter Englund, Nathaniel Lalone

The Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) have published parallel consultations on amendments to their respective securitization rules. The proposals in the FCA consultation paper (CP26/6) and PRA consultation paper (CP2/26) are intended to make the UK's securitization rules more proportionate and less prescriptive, to reduce the compliance burden for affected firms. *Read about the consultation papers.*

ICYMI

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

- "UK-Based AIFM Regulatory Hosting SEC Compliance Requirements for Serving US Clients," March 16, 2026
- "Artificial Intelligence and M&A: Navigating the New Deal Landscape," March 12, 2026

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