

## Financial Markets and Funds *Quick Take* | Issue 51

June 2026

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

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### SEC

#### **Show Me the Fees: SEC Risk Alert Zeroes in on Economic Conflicts of Interest**

*By Michael Didiuk, Adam Bolter*

The Securities and Exchange Commission's (SEC) Division of Examinations(Division) issued a Risk Alert on June 9, highlighting its observations during a review of the economic incentives that investment advisers and their financial professionals may have to recommend certain products, services, or account types to clients. [Read about potential violations of fiduciary duty.](#)

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#### **Breaking New Ground: SEC and NFA Sign First-Ever Memorandum of Understanding**

*By Michael Didiuk, Carl Kennedy, Matt Kluchenek, Alexander Kim*

The SEC and the National Futures Association (NFA) announced an unprecedented step in regulatory coordination with a memorandum of understanding (MOU) to enhance cooperation, coordination and information sharing in areas of common regulatory interest. While the SEC has long collaborated with the Commodity Futures Trading Commission (CFTC), which designated NFA as the only registered futures association for the US derivatives industry, this marks the first time the SEC has entered into such a formal arrangement directly with NFA. [Read about key areas of the MOU.](#)

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## **Cboe Defends Proposed Disruptive Trading Rule in Response to Industry Pushback**

*By Christian Kemnitz, Zachary Schmitz, Peter Wilson, Jessica Gracik, Casey McClaren*

[Following the SEC's determination to seek public comments regarding Cboe's proposed Rule 8.23 governing disruptive trading practices](#), both the Securities Industry and Financial Markets Association ([SIFMA](#)) and Principal Traders Group ([PTG](#)) submitted letters raising concerns about the scope, clarity and potential unintended consequences of the Proposed Rule. [Read about the scope of the proposed changes.](#)

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## **Susan Light on What Ending the SEC's 'Gag Rule' Means for Enforcement Settlements**

*Bloomberg Law Securities* and *The Daily Upside* spoke with Partner and Broker-Dealer Regulation Co-Chair Susan Light about the SEC's decision to rescind its decades-old "gag rule," which barred companies and individuals from publicly denying agency allegations after settling enforcement actions. SEC Chairman Paul S. Atkins framed the May 18 rollback as a move to support free speech, but Sue noted the change is unlikely to increase the number of settlements reached with defendants. [Read about Sue's comments.](#)

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## **CFTC**

### **CFTC Eliminates 'No-Deny' Settlement Policy**

*By Christian Kemnitz, Carl Kennedy, Brian Poronsky, Sam Bevenour, Alexa Warner*

On June 3, the CFTC rescinded its longstanding policy requiring defendants to refrain from publicly denying their allegations as a condition of settlement. This change carries meaningful implications for firms and individuals navigating CFTC enforcement actions and is likely to introduce several new considerations for clients negotiating settlements with the CFTC going forward. [Read about the policy change.](#)

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## **NFA Seeks to Ease Member Requirements Regarding Annual Questionnaire Filings and Branch Office Supervision**

*By Carl Kennedy, Nicholas Gervasi, Alexander Kim, Gabriela Urias*

The NFA submitted two new proposals to the CFTC on June 1, which will affect NFA Member firms across multiple registration categories. The first proposal addresses who may review, sign, and submit the NFA Member Questionnaire under Compliance Rule 2-52. The second proposal updates the branch office supervision framework under Interpretive Notice 9002. [Read about the proposals.](#)

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## **No Closing Bell: CFTC Staff Advisory Provides Guidance on 24/7 Trading and Clearing**

*By James Brady, Carl Kennedy, Stephen Morris, Nicholas Gervasi, Alexa Warner*

Closing bells may soon be a thing of the past in US derivatives markets. In Advisory Letter No. 26-16, the CFTC's Division of Clearing and Risk, Division of Market Oversight, and Market Participants Division set out their regulatory expectations for derivatives clearing organizations (DCOs), designated contract markets (DCMs), swap execution facilities (SEFs), and futures commission merchants (FCMs) considering around-the-clock trading and clearing. [Read about what this could mean for trading obligations.](#)

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## **Self-Reporting and Cooperation 3.0: CFTC Enforcement Division's New Policy Offers a Clearer Path to Declination**

*By Daniel Davis, Christian Kemnitz, Carl Kennedy, Matt Kluchenek, Brian Poronsky, Zachary Schmitz, Mitchell Caminer, Alexa Warner*

Building on recent public statements by CFTC Enforcement Director David Miller, the CFTC's Division of Enforcement issued an advisory on May 19 outlining its new policy for evaluating cooperation when considering declinations or making enforcement recommendations. The Advisory replaces the Division's February 25, 2025, self-reporting and cooperation advisory, supersedes prior statements in the Division's Enforcement Manual, and includes several notable changes from the CFTC's previous approach to cooperation. [Read about the changes.](#)

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## **CFTC Framework for Technology Service Vendors (TSVs)**

*By Daniel Davis, Carl Kennedy*

Published by *Thomson Reuters Practical Law Finance*, this article explains the CFTC framework for oversight of technology service vendors (TSVs). This also highlights the implications of CFTC Staff Letter 26-09, explaining how the letter provides a pathway for TSVs, such as self-custodial wallet

providers, to facilitate user access to CFTC-regulated derivatives markets without registering as an introducing broker (IB). It describes how Letter 26-09 expands the established regulatory framework for TSVs and analyzes the conditions required to obtain relief for TSVs. [Read Katten's article.](#)

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## Broker-Dealer

### AI for Broker-Dealers and Investment Advisers: Legal and Regulatory Considerations

*By Susan Light, David Dickstein, Alexander Kim, Nicholas Gervasi*

Published in *LexisNexis Practical Guidance*, this practice note discusses legal and regulatory considerations for broker-dealers and investment advisers implementing artificial intelligence (AI) technologies in their operations. It discusses obligations under SEC and Financial Industry Regulatory Authority (FINRA) rules, as well as under the Investment Advisers Act of 1940, for broker-dealers and investment advisers using AI in various parts of their operations, including emerging AI trends such as generative AI and AI agents. [Read Katten's article.](#)

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## Prediction Markets/Crypto

### Trading on Tomorrow: The Economics and Rise of Prediction Markets

*By Carl Kennedy, Daniel Davis, Alexander Kim, Jianghao Liu of NERA*

The prediction markets industry reached a significant milestone. The US Commodity Futures Trading Commission (CFTC) announced the adoption of a Notice of Proposed Rulemaking (NPRM) that proposes a clearer regulatory framework for event contracts and signals the agency's continued focus on a sector that has experienced rapid growth and increased public attention. [Browse the interactive report.](#)

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### Keeping Tabs: CFTC and DOJ Charge Software Engineer with Insider Trading for Prediction Market Trades

*By Christian Kemnitz, Carl Kennedy, Matt Kluchenek, Brian Poronsky, Zachary Schmitz*

Following on the heels of the highly publicized [first criminal and civil case charging insider trading in prediction markets](#), the US [Department of Justice](#) (DOJ) and the [CFTC](#) filed the first cases alleging insider trading in prediction markets based on the improper use of confidential commercial

information. The May 27 complaints allege that a software engineer for a major internet search provider misappropriated confidential information from his employer to place numerous profitable trades in event contracts. [Read about the case.](#)

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## **Eight Takeaways From My Conversation with the SEC Crypto Task Force's Chief Counsel**

*By Michael Didiuk*

At the Crypto with Katten symposium, I had the opportunity to sit down with Taylor Lindman, Chief Counsel of the SEC's Crypto Task Force, for a wide-ranging discussion on the Task Force's agenda, its evolving regulatory approach, and how market participants should be thinking about engagement. Our conversation reflected the depth of experience he brings to the role. Here are my key takeaways from our discussion. [Read about Lindman and the Crypto Task Force.](#)

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## **“This Is Your Moment”: Commissioner Peirce Urges Crypto Industry to Build While Regulators Clear the Way**

*By Daniel Davis, Michael Didiuk, Carl Kennedy, Adam Bolter, Alexa Warner*

"This is your moment. Like, enjoy this moment where you've got agencies that want to work with you to build good things, good things that serve other people." That was the message from SEC Commissioner Hester Peirce at Crypto with Katten. Her remarks drew spontaneous applause when she called on industry and regulators to "lock arms" and ensure that America's capital markets remain the best place in the world for innovators to build and solve human problems. [Read about Peirce's remarks.](#)

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## **Five Predictions for Tokenization in 2027**

*By Michael Didiuk, Daniel Davis, Carl Kennedy, Matt Kluchenek, Adam Bolter*

At the recent Crypto with Katten symposium, co-sponsored with the Investment Advisers Association (IAA), Katten hosted a panel on "The Tokenization Wave: Opportunities, Challenges, and What Comes Next," featuring an extraordinarily distinguished group: Billy Miller (COO, Securitize), Norman Reed (Director, Binance US), Amanda Tuminelli (CEO and CLO, DeFi Education Fund), and Monique Botkin (Associate General Counsel, IAA). Each panelist was asked to look ahead and describe what the tokenization sector could look like by this time next year. [Read about their answers.](#)

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## President Trump Issues Executive Order to Facilitate Fintech Innovation in the United States

By Michael Didiuk, Christina Grigorian, Carl Kennedy, Adam Bolter, Lori Jacobs, Alexander Kim, Alexa Warner

President Donald J. Trump signed an executive order on May 19, "[Integrating Financial Technology Innovation into Regulatory Frameworks](#)," directing federal financial regulators to "update regulations to allow integration of digital assets and innovative technology into traditional financial services and payment systems" and to "remove overly burdensome and fragmented regulations and supervisory practices that form barriers to entry and primarily benefit incumbent financial services firms." [Read about key directives.](#)

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## Litigation

### Supreme Court Rejects Implied Private Right of Action Under Section 47(b) of the Investment Company Act of 1940

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

On June 11, the Supreme Court, in a 6-3 decision authored by Justice Amy Coney Barrett, joined by Justices John G. Roberts, Clarence Thomas, Samuel A. Alito, Neil M. Gorsuch, and Brett M. Kavanaugh, issued a pivotal and much-anticipated ruling in *FS Credit Opportunities Corp. v. Saba Cap. Master Fund, Ltd.*, holding that Section 47(b) of the Investment Company Act of 1940 (ICA) does not provide private parties a right to sue to rescind contracts that allegedly violate the ICA. [Read about the decision.](#)

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### The Supreme Court Rejects Further Limits on SEC Disgorgement

By Susan Light, Richard Marshall, Patrick Smith

On June 4, in *Sripetch v. SEC*, No. 25–466, the Supreme Court unanimously held that the SEC need not prove that victims suffered a financial loss before obtaining a disgorgement award in a civil enforcement action. The Supreme Court case arose from the SEC's civil enforcement action against Mr. Sripetch for engaging in numerous fraudulent penny-stock schemes. [Read about the decision.](#)

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## **SCOTUS Rules Federal Courts Retain Jurisdiction in Post-Arbitration Proceedings: Implications for FINRA and NFA Arbitrations**

*By Brian Poronsky, Ben Levine*

Last week, the Supreme Court held that federal courts that compel arbitration and stay a case pending completion of that arbitration under Section 3 of the Federal Arbitration Act (FAA) retain their jurisdiction to confirm or vacate the resulting arbitration award. *Jules v. Andre Balazs Properties*, No. 25-83 (May 14, 2026) (*Jules*). [Read about the unanimous decision.](#)

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## **EU/UK**

### **FCA Doubles UK EMIR Commodity Clearing Threshold to EUR 6 Billion**

*By Carolyn Jackson, Ciara Watson*

On May 29, the Financial Conduct Authority (FCA) published Handbook Notice 141, confirming a significant recalibration of the clearing threshold for commodity derivatives under the UK European Market Infrastructure Regulation (UK EMIR). The threshold under UK EMIR has been raised from EUR 3 billion to EUR 6 billion – doubling of the previous limit. [Read about the changes.](#)

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### **Tokenization in UK Wholesale Markets: the FCA and Bank of England Publish Long-Term Vision**

*By Christopher Collins, Carolyn Jackson, Nathaniel Lalone, Neil Robson, Ciara Watson*

On May 18, the FCA and the Bank of England (BoE), including the Prudential Regulation Authority (PRA), published a joint call for input seeking contributions from the industry on how to enable the safe adoption of tokenization in UK markets. The deadline for responses is July 3. [Read about the call for input.](#)

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### **Opening Pan-DORA's Box: Navigating the Practical Challenges of the EU's Digital Operational Resilience Act**

*By Nathaniel Lalone, Ciara Watson*

Published by the *Journal of Financial Compliance*, this article examines the key challenges firms have encountered in their compliance journey with the EU Digital Operational Resilience Act (DORA) and explores some of the practical solutions that have emerged from implementation to date. [Read Katten's article.](#)

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## ICYMI

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

- "[Game Plan or Game Changer? The CFTC Proposes New Rules for Event Contracts and Prediction Markets](#)," June 26, 2026
  - "[ILPA Continuation Fund Disclosure Template: The New Framework and the Coller Capital Mock Transaction](#)," June 18, 2026
  - "[The SEC is Through with the Trade-Through Rule](#)," June 15, 2026
  - "[Perpetual Futures Come Onshore: The CFTC's New Regulatory Framework](#)," June 4, 2026
  - "[OCC Publishes Interpretive Letter Confirming Licensing Preemption for National Banks Related to State Money Transmission Laws](#)," June 1, 2026
  - "[Wyden's PPLI/PPVA Deja Vu Proposal: A Tax-Shelter Narrative, a Far Broader Statutory Rule and the Continuing Importance of Current-Law Compliance](#)," May 20, 2026
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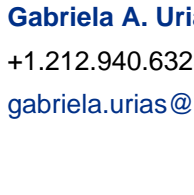
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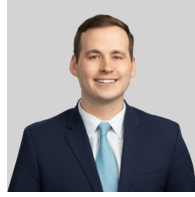
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