



Katten Financial Markets and Funds Quick Take

June 2023

Four Key Considerations Since SEC Amended Form PF

By Adam Bolter, Richard Marshall, David Dickstein, Christian Hennion

In early May, [the Securities and Exchange Commission \(SEC\) adopted a final rule amending Form PF](#), the confidential reporting form for certain SEC-registered investment advisers to private funds. Form PF is designed to facilitate both the Financial Stability Oversight Council's ability to monitor systemic risk, as well as the SEC's regulatory oversight of private fund advisers and investor protection efforts. [Read about practical considerations for advisers using Form PF.](#)

SEC Adopts T+1 Settlement Cycle

By Alexa Rollins

On February 15, the SEC adopted amendments to Exchange Act Rule 15c6-1, including an amendment that decreased the standard settlement cycle for most broker-dealer transactions in securities from two business days after the trade date (T+2) to one business day after the trade date (T+1) (15c6-1(a)). Additionally, security-based swaps are now excluded from the settlement cycle requirements under Rule 15c6-1(a) (15c6-1(b)). The compliance date for the rule amendments is May 28, 2024. However, unlike the rest of the amendments to Rule 15c6-1, the amendment to Rule 15c6-1(b) excluding security-based swaps became effective on May 5, 2023. [Read Katten's article in Capital Markets Compass.](#)

Swap Dealers and Futures Commission Merchants: "Let's Talk About Risk," Says CFTC in an Advanced Notice of Proposed Rulemaking

By Gary DeWaal, Carl Kennedy

Current risk management program (RMP) requirements of swap dealers and futures commission merchants will be re-evaluated as part of an advanced notice of proposed rulemaking issued by the Commodity Futures Trading Commission (CFTC) on June 1, 2023. Among other things, the CFTC seeks comments on whether current RMP requirements "adequately and comprehensively address the risks associated with the activities of affiliates." [Read about the CFTC's request for feedback on risk management.](#)

Financial Industry Must Beware Rising BIPA Litigation Tide

By Charles DeVore, Geoffrey Young, Anna Mikulski

Noting that the Illinois Biometric Information Privacy Act (BIPA) has become one of the fastest growing class action litigation trends in the United States, the article explores how BIPA's exemption for financial firms and their affiliates has been challenged in multiple cases, with some courts beginning to limit its application. Financial institutions have largely found cover from BIPA litigation through the Gramm-Leach-Bliley Act of 1999 (GLBA), but are now expected to prove

applicability when charged with a BIPA action. BIPA litigation is also inspiring similar actions in California related to the California Consumer Privacy Act (CCPA) and California's Invasion of Privacy Act (CIPA). [Read Katten's article in Law360.](#)

Texas Legislature Passes Broad Consumer Data Privacy Bill

By Trisha Sircar

On May 28, the Texas legislature passed the Texas Data Privacy and Security Act (TDPSA), also known as [H.B. 4](#). The TDPSA was sent to Governor Greg Abbott on May 30. If signed into law, the TDPSA will take effect on July 1, 2024. [Read about key takeaways from the TDSPA.](#)

SEC No-Action Letters on Proxy Materials and Other Developments Reinforce Commission-Wide Commitment to ESG

By Danette Edwards, Richard Zelichov, Trevor Garmey

Any doubts about the commitment of the SEC to environmental and social governance (ESG) disappeared in recent months, as its Division of Corporation Finance (DCF) slammed the door on requests by prominent issuers to exclude shareholder proxy proposals related to human rights, diversity, equity and inclusion (DEI), and climate change. [Read about the SEC's stance on ESG and shareholder proxy proposals.](#)

SEC Turns Up Heat on Climate-Related Comment Letters

By Farzad Damania, Ryan Lilley

Since the SEC provided a [sample comment letter](#) in September 2021, Katten has reviewed and analyzed the climate-related comment letters issued to over 70 companies on a stand-alone basis. Initially, it appeared that the SEC focused exclusively on larger companies with a market capitalization exceeding approximately \$3.5 billion. However, during the second half of 2022, the SEC issued comments to companies with market capitalizations as low as approximately \$500 million. [Read Katten's article in Capital Markets Compass.](#)

IOSCO Consults on Policy Recommendations for Crypto and Digital Asset Markets

By Neil Robson, Ciara McBrien

The International Organization of Securities Commissions (IOSCO) recently published a consultation report (CR01/2023) (Consultation) on draft policy recommendations (Recommendations) to support greater regulatory and oversight consistency within the crypto and digital assets markets. [Read about the key areas covered in the IOSCO's Recommendations.](#)

Post-Brexit UK-EU Memorandum of Understanding Adopted

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

On 17 May 2023, the European Commission (Commission) published a press release announcing that – as a major post-Brexit milestone – it has adopted a draft memorandum of understanding (MoU) on regulatory cooperation in financial services with the UK. This follows the Joint Declaration on Financial Services Regulatory Cooperation between the UK and the EU, which accompanied the Trade and Cooperation Agreement (TCA). [Read about the MoU.](#)

FCA Publishes Findings From its Whistleblowing Survey 2022

By Neil Robson, Ciara McBrien

The Financial Conduct Authority (FCA) recently published the findings from its 2022 whistleblowing qualitative assessment survey, together with the steps it intends to take to improve whistleblower confidence. The FCA's summary and press release are available [here](#) and [here](#). The FCA conducted the survey to understand whistleblowers' experience of reporting to the FCA and to capture views about their experience of notifications of wrongdoing to the regulator. [Read about the Whistleblowing Survey findings.](#)

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