Having trouble viewing this email? Click here.

Katten Financial Markets and Funds *Quick Take*
May 2024

FIX(ML)ing the Data Submission Standard: The CFTC's Large Trader Rules Get a Makeover

By Stephen Morris, Nicholas Gervasi

Part 17 of the Commodity Futures Trading Commission's (CFTC) regulations require futures commission merchants (FCMs), clearing members of registered derivatives clearing organizations and foreign brokers holding omnibus accounts with such FCM clearing members to submit reports of the positions held by "large traders" (i.e., traders controlling positions exceeding thresholds prescribed under those regulations). For reporting firms, large trader reporting presents perhaps the most stubborn compliance challenge in the CFTC rulebook. Part 17's difficulties largely stem from conforming position reporting to the strictures of a Cobol-based data submission standard initially developed in the 1980s. *Read about Part 17 updates.*

Katten Partners Examine New 'Dealer' Definitions and What It Means for Hedge Funds

Partners and Broker-Dealer Regulation Co-Chairs Wayne Aaron and Susan Light spoke with *Hedge Fund Law Report* on the Securities and Exchange Commission's (SEC) updated definitions of "dealer" and "government securities dealer" under the Securities Exchange Act of 1934, which may require some hedge funds to register as dealers. Hedge fund managers must now assess whether their funds fall under the new definitions and decide whether to register as a dealer or modify their funds or strategies to avoid this requirement. *Read about Wayne and Sue's "dealer" analysis for hedge funds.*

Final Rule on FLSA Salary Thresholds

By Julie Gottshall, Janet Widmaier

On April 23, the Department of Labor (DOL) released a final rule raising the salary thresholds for certain overtime exemptions under the federal Fair Labor Standards Act (FLSA). See the commentary and final rule, as well as the DOL's FAQ.

Key Takeaways

- The FLSA exempts executive, administrative, and professional employees from receiving overtime based on a combination of factors: whether the employee is paid a salary, the size of the salary and the employee's duties.

- The new rule increases the salary thresholds for employees in these groups to be exempt from the FLSA's overtime requirements.
- On **July 1, 2024**, the following increases go into effect:
  - The salary threshold for FLSA exemptions for executive, administrative, and professional employees will increase to **$855/week ($43,888/year)** from $684/week ($35,568/year).
  - The salary threshold for FLSA exemptions for highly compensated employees will increase to **$132,964/year** from $107,432/year.
- Another set of increases go into effect on **January 1, 2025**, based on the adoption of a new methodology:
  - The salary threshold for FLSA exemptions for executive, administrative, and professional employees will increase to **$1,128/week ($58,656/year)**.
  - The salary threshold for FLSA exemptions for highly compensated employees will increase to **$151,164/year**.
- Beginning **July 1, 2027**, the salary thresholds will automatically update every three years.

Read about next steps and considerations for employers.

Whistleblower Rewards Program Update: DOJ Explains and Expands Pilot Program for Voluntary Disclosures

By Ryan Meyer, Ryan Dean

On April 15, the Department of Justice (DOJ) publicly released a memorandum fleshing out its previously announced corporate whistleblower program, which is intended to induce individuals to report alleged criminal conduct, particularly by corporates, through the use of non-prosecution agreements. Indicative of the importance the DOJ is attaching to this new whistleblower program, the DOJ has publicly released this memorandum 45 days ahead of schedule! DOJ's memorandum discusses non-prosecution agreements (NPAs) generally, but the memorandum's goal is to provide clarity and assurances as to when NPAs will be offered — a process that was largely unclear until now. *Read about voluntary disclosures.*

EU/UK

European Parliament Adopts Corporate Sustainability Due Diligence Directive

By Neil Robson, Ciara McBrien, Sara Portillo

On April 24, the European Parliament formally adopted at first reading the final text of the Corporate Sustainability Due Diligence Directive (CSDDD). This marks the end of the key legislative process in respect of the landmark CSDDD after four years. The Parliament did not make any further changes to the text of the CSDDD, so the adopted text is the same text proposed by the Council of the European Union in March 2024, which significantly reduces the in-scope companies and extends the timeframe for compliance. *Read about the CSDDD final text.*

UK Regulator Updates its Approach to AI and Sets a 12-Month Plan

By Neil Robson, Sara Portillo

The UK's Financial Conduct Authority (FCA) recently published an update on its approach to artificial intelligence (AI) following the publication of the UK government's pro-innovation strategy in February 2024 (the Strategy). The Strategy identified the following five principles as 'key' to the regulation of AI in the UK: (i) safety, security, robustness; (ii) appropriate transparency and explainability; (iii) fairness; (iv) accountability and governance; and (v) contestability and redress. The update details, at a high level, how the FCA's existing approach aligns with each of the identified principles and describes itself as a 'technology-agnostic, principles-based and outcomes-focused regulator.' *Read about the FCA's 12-month AI plan.*

CONTACTS

For questions about developments in the Financial Markets and Funds industry, please contact any of the following Katten attorneys.

Wendy E. Cohen

vCard

Daniel J. Davis

vCard

Carl E. Kennedy

vCard

Christopher T. Shannon

vCard

Allison C. Yacker

vCard

Lance A. Zinman

vCard

Partners Stephen Morris and Jonah Roth serve as co-editors of Katten Financial Markets and Funds Quick Take.