



Katten Financial Markets and Funds *Quick Take*

August 2024

FinCEN Proposes Enhanced AML Rules

By Susan Light, Eli Krasnow

On July 3, the Financial Crimes Enforcement Network (FinCEN) published a proposed rule to strengthen and modernize financial institutions' anti-money laundering and countering the financing of terrorism programs. The proposal would require financial institutions to establish, implement and maintain *effective risk-based* AML/CFT programs. The effectiveness standard and other technical changes contemplated by the proposal are designed to "promote clarity and consistency across FinCEN's program rules for different types of financial institutions." The financial institutions covered by this proposed rulemaking include banks, money services businesses, broker-dealers in securities, mutual funds, insurance companies, futures commission merchants and introducing brokers in commodities, operators of credit card systems, loan or finance companies but does not address investment advisers. [Read about the FinCEN proposal.](#)



Spring 2024 Agenda of Regulatory Actions Published: SEC Spotlight

By Adam Bolter

Twice each year, the Office of Information and Regulatory Affairs publishes the semi-annual "Unified Agenda of Regulatory and Deregulatory Actions" of the various federal agencies. Here, we focus on the Securities and Exchange

Commission's (SEC) [Spring 2024 rulemaking agenda](#). In a [previous Katten post](#), we summarized some of the key SEC initiatives identified in the Fall 2023 agenda, most of which involved finalizing already-proposed rules. [Read about what's changed.](#)

Artists Sue SEC, Challenging Agency's Authority Over Digital Art and NFTs

By Gary DeWaal, Alexander Kim

Two artists have filed a [lawsuit](#) against the Securities and Exchange Commission (SEC), contesting the agency's assertion of authority over non-fungible tokens (NFTs). Jonathan Mann, a musician renowned for his daily songwriting, and Brian L. Frye, a conceptual artist and law professor, are seeking declaratory judgments that their planned NFT projects do not constitute securities offerings. Mann's project involves releasing 10,420 NFTs featuring remixes of his song "This Song Is A Security," while Frye plans to offer 10,320 NFTs representing ownership in a conceptual artwork. Both artists fear potential SEC enforcement action if they proceed without clarity on the legal status of their projects. [Read about this artists' challenge.](#)



ABA Weighs in on Generative AI Use in Legal Practice

By Alexander Kim, Michael Justus

The American Bar Association's (ABA) Standing Committee on Ethics and Professional Responsibility issued Formal Opinion 512, attempting to provide guidance on the ethical considerations for lawyers using generative artificial intelligence (GAI) tools. While the opinion addresses important issues, it may raise as many questions as it answers regarding the use of GAI in legal practice. The ABA's Formal Opinion 512 addresses key ethical considerations for lawyers using GAI, including competence, confidentiality, client communication, candor to tribunals, supervision, and fee arrangements. [Read about what the opinion includes as capabilities and limitations.](#)

The California Regulator Publishes New CCPA Regulations for Public Comment

By Trisha Sircar

On July 15, the California Privacy Protection Agency (CPPA) released official materials ahead of its [July 16 Board meeting](#). The materials include [draft regulations](#) for automated decision-making technology, risk assessments and cybersecurity audits that will be discussed for potential rulemaking. The CPPA Board had previously voted to advance the draft regulations for official rulemaking on March 8, 2024. [Read about the CPPA's regulations.](#)



California Consumer Privacy Act

EU/UK

FCA Publishes Policy Statement on UK Overseas Funds Regime

By Neil Robson, Christopher Collins, Ciara McBrien



On July 17, the Financial Conduct Authority (FCA) published a policy statement setting out the final rules and guidance necessary to implement the UK's Overseas Funds Regime (OFR). This follows the FCA's December 2023 consultation on the implementation of the OFR. The OFR will be

a new gateway through which certain collective investment schemes, domiciled in jurisdictions deemed to be equivalent to UK-domiciled funds by the UK Government, will be able to be marketed to UK retail investors. [Read about the FCA's guidance.](#)

ICYMI

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

- ["DOJ Details Its Bounty Program as New Corporate Whistleblower Program Rolls Out,"](#) August 2, 2024
- ["UK M&A Transactions: Key Considerations for US Buyers,"](#) July 16, 2024

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