

## A More Business-Friendly Approach to Innovation, Risk Management and Derivatives Regulation: What to Expect From Incoming CFTC Chairman Brian D. Quintenz

February 18, 2025

---

President Donald Trump's nomination of Brian D. Quintenz to serve as Chairman of the Commodity Futures Trading Commission (CFTC or Commission) portends a potential shift towards a more business-friendly regulatory approach to overseeing US derivatives markets and CFTC-regulated products. Informed by his years of private sector and public service experiences,<sup>1</sup> Mr. Quintenz will return to the CFTC with helpful insights into how regulations practically impact market participants.

As a CFTC commissioner from 2017 to 2021 under the first Trump administration, Mr. Quintenz consistently focused on addressing actual market risks while promoting innovation and technology. Mr. Quintenz's record suggests that he will be a chairman who embraces technological innovation while insisting on practical safeguards, seeks targeted rather than sweeping regulatory solutions, and works closely with other regulators both domestically and abroad. In each area, he has emphasized that the CFTC should seek to address real market impacts and consider the practical implications of the agency's rulemakings and guidance. Drawing from his past public statements both while he was a CFTC commissioner and in the years following his government tenure, this advisory briefly examines how Mr. Quintenz's regulatory worldview will likely influence several key CFTC initiatives, from market innovation to international harmonization efforts.

Following President Trump's February 12 nomination, Mr. Quintenz will need to secure Senate confirmation before assuming the chairmanship. While the Senate has not yet scheduled confirmation hearings, the process will, at minimum, take several months after nomination as the Senate conducts its review.

### Innovation and Technology

Mr. Quintenz's approach to innovation and technology reflects a pro-business, pro-innovation stance moderated by practical risk management considerations. Rather than supporting blanket or vague regulations that inadvertently engulf a wide array of technologies, Mr. Quintenz has advocated for a more tailored approach that first identifies specific risks, then examines existing market-based solutions, and finally determines whether additional regulation can effectively address remaining concerns.<sup>2</sup> Mr. Quintenz has argued "the Commission should not adopt . . . regulations to address amorphous, hypothetical concerns or simply for the sake of having them on the book."<sup>3</sup>

---

<sup>1</sup> Mengqi Sun, Trump Picks Brian Quintenz to Be CFTC Chairman, Wall St. J. (Feb. 13, 2025, 1:47 PM), <https://www.wsj.com/articles/trump-picks-brian-quintenz-to-be-cftc-chairman-3e23352d>.

<sup>2</sup> Brian D. Quintenz, Comm'r, CFTC, "Statement of Commissioner Brian D. Quintenz on the End of His Term and Future Plans" (Aug. 19, 2021), available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement081921>.

<sup>3</sup> Brian D. Quintenz, Comm'r, CFTC, "Opening Statement of Commissioner Brian D. Quintenz before the Technology Advisory Committee" (Feb. 14, 2018), available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement021418>.

Mr. Quintenz's philosophy aligns with the CFTC's mandate as set forth in the Commodity Exchange Act (CEA) for the agency to promote responsible innovation.<sup>4</sup> Mr. Quintenz has consistently followed this mandate in his various leadership roles at the agency. For instance, as sponsor of the CFTC's Technology Advisory Committee, he demonstrated this balanced approach by driving the broader integration of financial technology in derivatives markets while seeking appropriate safeguards through state-of-the-art risk control mechanisms and scalable cybersecurity programs.<sup>5</sup>

In the context of his record on supporting or challenging Commission rulemaking, his stance on the ultimately withdrawn Regulation Automated Trading (Reg AT) further illustrates his philosophy regarding innovation and risk management. Mr. Quintenz opposed the various iterations of Reg AT because in his view each proposal departed from promoting responsible innovation, arguing that the proposals would have imposed rigid, one-size-fits-all risk controls while failing to address specific market risks posed by automated trading.<sup>6</sup> He particularly criticized one of Reg AT's requirements to disclose proprietary source code without a subpoena, viewing this as an example of unnecessary regulatory overreach that would stifle innovation without providing corresponding regulatory benefits.<sup>7</sup>

**Digital Assets.** Drawing on his experience as both a CFTC commissioner and private fund advisor, Mr. Quintenz has demonstrated that he is a strong advocate for functional and well-regulated digital asset markets. He also has pushed for the agency to take a balanced and pragmatic perspective towards fraud concerns. In his public statements, Mr. Quintenz highlighted how digital assets can reduce settlement times from days to minutes and enable 24/7 market access – innovations he has argued could reduce costs for market participants while expanding global market accessibility.<sup>8</sup>

Notably, Mr. Quintenz has advocated for equal regulatory treatment for all financial products at the CFTC, arguing that regulators should focus on enforcing market integrity and preventing fraud rather than deciding which new products are worthy of investment through the adoption of additional regulatory requirements. He has maintained that federal regulators should avoid adopting regulations and imposing requirements with the goal of influencing investment decisions. In his view, investment decisions are best left to markets, investors, and consumers.<sup>9</sup> At the same time, Mr. Quintenz has taken a firm stance on fraud and market manipulation, supporting enforcement actions to significantly penalize market misconduct by bad actors.<sup>10</sup>

**Event Contracts.** With respect to other innovative products, Mr. Quintenz has raised concerns about the current regulatory framework of CEA section 5c(c)(5)(C) and CFTC Regulation 40.11 covering event contracts,<sup>11</sup> which are a type of swap that allow market participants to take positions on the outcomes of specific events. Under this regulation, the CFTC may prohibit a CFTC-regulated contract market or swap execution facility from offering certain event contracts if the contract:(1) involves terrorism, assassination, war, gaming, or an activity that is unlawful under any state or federal law; and (2) the CFTC determines that offering the contract would be against the public

---

<sup>4</sup> 7 U.S.C. § 5(b).

<sup>5</sup> See Press Release, CFTC, "Commissioner Quintenz Named Sponsor of the Technology Advisory Committee" (Sept. 18, 2017), available at: <https://www.cftc.gov/PressRoom/PressReleases/7611-17>.

<sup>6</sup> *Supra* note 3.

<sup>7</sup> Brian Quintenz, Comm'r, CFTC, "Keynote Remarks Before the Symphony Innovate 2017 Conference" (Oct. 4, 2017), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opaquintenz1>.

<sup>8</sup> *Supra* note 6.

<sup>9</sup> Brian D. Quintenz, Comm'r, CFTC, "Remarks at the Technology and Standards: Unlocking Value in Derivatives Markets Conference" (Nov. 30, 2017), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opaquintenz4>.

<sup>10</sup> Brian D. Quintenz, Comm'r, CFTC, "Statement of Commissioner Brian D. Quintenz Regarding the Commission's Enforcement Action against BitMEX" (Oct. 1, 2020), available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement100120>.

<sup>11</sup> Brian D. Quintenz, Comm'r, CFTC, "Statement of Commissioner Brian D. Quintenz on ErisX RSBIX NFL Contracts and Certain Event Contracts" (Mar. 25, 2021), available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement032521>.

interest.<sup>12</sup> The CFTC may also prohibit contracts involving similar activities that it determines by rule or regulation to be contrary to the public interest.<sup>13</sup>

In his March 2021 statement on the CFTC’s consideration of certain sports futures contracts, Mr. Quintenz argued that Congress, not the CFTC, must either ban these contracts outright or establish clear criteria for their review and approval.<sup>14</sup> His dissent specifically challenged the CFTC’s decision-making process in the case, questioning both the Commission’s methodologies and statutory authority in evaluating whether the contracts are contrary to the public interest.<sup>15</sup>

## Risk Management

Mr. Quintenz’s views on risk management have centered on targeted approaches rather than broad-sweeping regulations. He has advocated for “smart regulation” that diverges from one-size-fits-all proposals, instead prioritizing thoughtful analysis of policy goals, regulatory costs and impacts on incentives.<sup>16</sup> Mr. Quintenz has applied this same principle to regulatory relief, supporting the codification of no-action relief in specific cases to enhance transparency and simplify compliance.<sup>17</sup> This strategy reflects his broader commitment to creating clear, practical regulatory frameworks that address real rather than theoretical risks.

## Enforcement

Mr. Quintenz has emphasized that “enforcement is not a substitute for guidance” in financial regulation.<sup>18</sup> While supporting targeted action against clear violations, he has argued that using enforcement cases to establish regulatory policy — particularly for emerging technologies like digital assets — fails to provide market participants with the clarity they need.<sup>19</sup> As he stated in June 2023, “Litigating whether specific tokens are securities through enforcement actions against third parties . . . is inappropriate and does little to protect consumers or provide markets with clarity.”<sup>20</sup> To the contrary, Mr. Quintenz has advocated for a collaborative approach where regulators work with market participants to develop clear rules before pursuing enforcement actions.<sup>21</sup>

## Collaboration on Domestic and International Issues

A central tenet of Mr. Quintenz’s regulatory approach has been his emphasis on enhanced coordination among domestic and international regulators. His previous work with Securities and Exchange Commission (SEC) Commissioner Hester Peirce reinforces his commitment to interagency coordination.<sup>22</sup> It is likely that Mr. Quintenz will seek to collaborate with incoming SEC Chairman Paul Atkins and other SEC commissioners (including Commissioner Peirce) on areas of overlapping jurisdiction between the agencies, including digital asset classification and the regulation of joint registrants.

---

<sup>12</sup> 7 U.S.C. § 7a-2(c)(5)(C).

<sup>13</sup> *Id.*

<sup>14</sup> Brian D. Quintenz, Comm’r, CFTC, “Statement of Commissioner Brian D. Quintenz on ErisX RSBIX NFL Contracts and Certain Event Contracts” (Mar. 25, 2021), available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement032521>.

<sup>15</sup> *Id.*

<sup>16</sup> Brian D. Quintenz, Comm’r, CFTC, “Keynote Address of Commissioner Brian D. Quintenz before the Smart Financial Regulation Roundtable” (Nov. 2, 2017), available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/opaquintenz3>.

<sup>17</sup> *Id.*

<sup>18</sup> Brian D. Quintenz, Comm’r, CFTC, “Statement of Commissioner Brian D. Quintenz Regarding the Commission’s Enforcement Action against BitMEX” (Oct. 1, 2020), available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement100120>.

<sup>19</sup> *Id.*

<sup>20</sup> Former CFTC Commissioner: Enforcement Is Not a Substitute for Guidance, N.M. Sun (June 8, 2023), <https://newmexicosun.com/stories/644420239-former-cftc-commissioner-enforcement-is-not-a-substitute-for-guidance>.

<sup>21</sup> *Id.*

<sup>22</sup> *Supra* note 2.

On the international front, Mr. Quintenz has advocated for regulatory deference and respect for sovereign regulatory frameworks.<sup>23</sup> He has supported a robust deference regime that would limit duplicative regulation while protecting US interests, as evidenced by his support for exemptive relief for non-US derivatives clearing organizations.<sup>24</sup> During his time as a CFTC commissioner, he consistently reiterated Congress’s statutory directive that the CFTC has authority to only regulate those foreign activities that have “a direct and significant connection with activities in, or effect on commerce, of the United States.”<sup>25</sup>

Mr. Quintenz also has advocated for increased reliance on substituted compliance and mutual recognition between jurisdictions as key tools to prevent market fragmentation.<sup>26</sup> As a CFTC commissioner, Mr. Quintenz argued that mutual recognition between jurisdictions would preserve market liquidity while respecting different regulatory frameworks. Moreover, he supported a flexible, outcomes-based framework for future comparability determinations that will evaluate the goals of the CFTC’s regulations against the standards of its foreign counterparts’ regimes, as opposed to a rigid prescriptive comparison.<sup>27</sup>

## Conclusion

With the proliferation of new and emerging technologies in US financial markets (such as digital assets, event contracts and generative artificial intelligence (Gen AI)), Mr. Quintenz’s vision for the CFTC will likely result in more pragmatic regulatory policy and enforcement. His support for innovation, emphasis on targeted risk management, and commitment to regulatory coordination will likely shape his approach as CFTC chairman. Under his leadership, the CFTC is likely to pursue a regulatory agenda that balances innovation with investor protection, emphasizing practical, actionable solutions. This approach, combined with his commitment to working with market participants and other regulators, will help guide the Commission through an increasingly complex and interconnected global financial system. For financial services firms, Mr. Quintenz’s chairmanship may signal a period of more pragmatic and targeted regulation, with an emphasis on addressing specific and identifiable risks.

---

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Brian D. Quintenz, Comm’r, CFTC, “Supporting Statement of Commissioner Brian D. Quintenz Regarding the Cross-Border Application of the Registration Thresholds and Certain Requirements Applicable to SDs and MSPs – Final Rule” (July 23, 2020), available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement072320>.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

---

## CONTACTS

For more information, please contact your Katten attorney or any of the following [Financial Markets and Funds](#) attorneys.



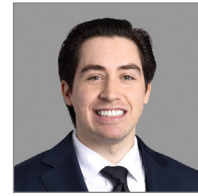
**Daniel J. Davis**  
+1.202.625.3644  
daniel.davis@katten.com



**Carl E. Kennedy**  
+1.212.940.8544  
carl.kennedy@katten.com



**Alexander C. Kim**  
+1.212.940.6535  
alexander.kim@katten.com



**Nicholas Gervasi**  
+1.212.940.8562  
nicholas.gervasi@katten.com

# Katten

katten.com

CHARLOTTE | CHICAGO | DALLAS | LONDON | LOS ANGELES | NEW YORK | ORANGE COUNTY | SHANGHAI | WASHINGTON, DC

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2025 Katten Muchin Rosenman LLP. All rights reserved.

*Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at [kattenlaw.com/disclaimer](https://kattenlaw.com/disclaimer).*

2/18/25