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Market Solutions is a quarterly newsletter about the activities of the Financial Markets Association as well as legislative/regulatory developments of interest to FMA members. The opinions expressed in this publication are those of the authors, not necessarily those of the Association and are not meant to constitute legal advice. *Market Solutions* is provided as a membership service of the **Financial Markets Association**, 111 W. College Street / Franklinton, NC 27525, **dp-fma@starpower.net**, 919/494-7479, **www.fmaweb.org**. Please let us have your suggestions on topics you would like to see addressed in future issues.

Outsourcing Intelligence: Managing Gen AI Risk, Responsibility, and Regulatory Expectations for Financial Services Firms

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WilmerHale

I. Overview

Financial services firms across nearly all sectors are experimenting with or deploying generative artificial intelligence (GenAI).[2] While some firms develop their own GenAI solutions that rely solely on proprietary technology, more commonly, firms customize third-party technology, adopt third-party applications wholesale, or contract with service providers to include AI functionality in existing offerings. Like traditional outsourcing, vendors that provide GenAI functionality introduce third-party risk; however, GenAI also presents unique challenges, including model bias, explainability, and data governance.

U.S. financial regulators have not adopted specific rules governing GenAI use by financial services firms, although the SEC, FINRA, CFTC, and banking regulators have made GenAI oversight a recurring topic in regulatory guidance.[3] So far, regulators have taken a "technology-neutral" approach to compliance, requiring firms to consider how their use of GenAI (including through third-party vendors) aligns with their compliance and risk management obligations under existing regulations.[4] Under this technology-neutral framework, firms must implement policies, procedures, and controls reasonably designed to comply with applicable rules and regulations.[5] This includes a system of supervisory, compliance, and risk management controls to address risks posed by affiliate and third-party vendors.[6] What is considered "reasonably designed" will depend on the GenAI use case, the vendor, and the firm's business model.[7]

This article provides practical guidance on navigating vendor arrangements throughout the relationship lifecycle and shares insights into key considerations for GenAI based on regulators' expectations. First, we discuss common GenAI use cases by financial services firms. Next, we address how to manage third-party risk GenAI presents in each vendor lifecycle phase: (1) governance and due diligence; (2) supervision and oversight; (3) contracting terms and conditions; and (4) offboarding.

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Route to: ❑ Audit ❑ Compliance ❑ Legal ❑ Risk Management ❑ Back Office ❑ Training

Legislative/Regulatory Actions

This column was written by lawyers from WilmerHale to provide an update on selected key legislative and regulatory developments affecting financial services and capital markets activities. Because of the generality of this column, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations.

In this issue, we address selected developments from the Securities and Exchange Commission ("SEC"), the Financial Industry Regulatory Authority ("FINRA"), the Municipal Securities Rulemaking Board ("MSRB"), the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC"), the Board of Governors of the Federal Reserve System ("Fed"), the Financial Crimes Enforcement Network ("FinCEN"), the Consumer Financial Protection Bureau ("CFPB" or "Bureau") and the Commodity Futures Trading Commission ("CFTC").

FEDERAL SECURITIES REGULATORS

SEC amends its rules to implement the Holding Foreign Insiders Accountable Act

The SEC amended its rules to implement the Holding Foreign Insiders Accountable Act ("HFIA Act").[1] The HFIA Act extends Section 16(a) of the Securities Exchange Act of 1934 ("Exchange Act") to the officers and directors of foreign private issuers ("FPIs"). Section 16(a) requires directors, officers and persons who beneficially own more than 10 percent of any class of equity securities registered under Section 12 of the Exchange Act to disclose their holdings and transactions in equity securities through filings with the Commission known as Section 16 reports. Officers and directors of FPIs have historically been exempt under Exchange Act Rule 3a12-3. In February, consistent with the HFIA Act, the SEC amended Rule 3a12-3 to eliminate the exemption for FPIs, effective March 18, 2026. While 10 percent owners of FPI equity securities will be exempt under Exchange Act Rule 16a-2, directors and officers will be required to file Section 16 reports. Directors and officers of FPIs will not be subject to Sections 16(b) and 16(c), which require the disgorgement of "short swing" profits and prohibit short selling, respectively.

The HFIA Act also amended Section 16(a) to permit the Commission to exempt any person, security or transaction if the Commission determines that the laws of a foreign jurisdiction apply substantially similar requirements to such person, security or transaction. In a March exemptive order, the SEC exempted the directors and officers of any FPI that is incorporated or organized in a "Qualifying Jurisdiction" and subject to a "Qualifying Regulation."[2] "Qualifying Jurisdictions" include Canada, Chile, the European Economic Area, the Republic of Korea, Switzerland and the United Kingdom. The Division of Corporation Finance also issued a series of frequently asked questions regarding the HFIA Act.[3]

SEC takes steps to reduce regulatory burden related to 2023 Names Rule amendments and 2023 and 2024 amendments to Form N-PORT

SEC Chair Paul Atkins told Congress in February that he directed staff to review the SEC's 2023 amendments to Rule 35d-1 (the "Names Rule") under the Investment Company Act of 1940 ("Investment Company Act"). The Names Rule requires registered investment companies whose names suggest a focus on a particular type of investment to adopt a policy to invest at least 80 percent of the value of their assets in those investments (the "80% Rule"). The 2023 amendments extend the 80% Rule to funds with names suggesting a focus on investments with particular characteristics, including funds with names suggesting a focus on environmental, social or governance ("ESG") factors.[4] In connection with the 2023 Names Rule amendments, the SEC also updated certain Names Rule-related regulatory requirements. In particular, the 2023 amendments would require certain registered investment companies to report information on Form N-PORT related to the 80% Rule. Registered investment companies publicly disclose their holdings on Form N-PORT.

Relatedly, the Commission is reevaluating the additional amendments it made to Form N-PORT in 2024.[5] Among other things, the 2024 amendments would require funds to file Form N-PORT no later than 30 days after the end of every month and would require the public disclosure of portfolio holdings every month rather than every quarter, meaning that market participants will have more regular insight into the holdings of registered funds. In October 2024, the Registered Funds Association filed a petition in the Fifth Circuit Court of Appeals seeking review of the 2024 amendments.[6]

The SEC has taken steps to reduce the regulatory burden associated with the 2023 Names Rule amendments and the 2023 and 2024 amendments to Form N-PORT. In March of 2025, the SEC extended the compliance date for the Names Rule amendments to June 11, 2026 for larger fund groups and December 11, 2026 for smaller fund groups.[7]

The SEC continued that effort in the first quarter of 2026. The SEC issued frequently asked questions to clarify the application of the 80% rule.[8] In February, the SEC also proposed certain amendments to Form N-PORT to alleviate the burden on funds caused by the 2023 and 2024 amendments.[9] Among other changes, the SEC proposed to eliminate the Names Rule-related

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II. GenAI Use Cases

Financial services firms are increasingly using GenAI, ranging from basic summarization and content generation to workflow automation. FINRA recently identified common examples it observed, including:[8]

- *Summarization and Information Extraction*: condensing large volumes of text and extracting key information from unstructured documents;
- *Conversational AI and Question Answering*: providing interactive, natural language and responses to user queries through chatbots, virtual assistants, and voice interfaces;
- *Sentiment Analysis*: assessing the tone of text as positive, neutral, or negative;
- *Translation*: translating text between supported languages and converting audio to text or vice versa;
- *Content Generation and Drafting*: creating written content, including documents, reports, marketing materials, and other resources;
- *Personalization and Recommendation*: tailoring products, services, or content to customer preferences and circumstances;
- *Classification and Categorization*: sorting, labeling, and organizing data, documents, or transactions into predefined categories or groups;
- *Coding*: generating functional code for specified inputs and output objectives;
- *Query*: retrieving results from structured databases with natural language;
- *Synthetic Data Generation*: creating artificial datasets that resemble real-world data but are generated by computer algorithms or models rather than collected from actual observations or measurements;
- *Analysis and Pattern Recognition*: identifying trends, correlations, or anomalies in complex datasets to generate insights and predictions;
- *Modeling and Simulation*: developing automated financial modeling, forecasting, scenario creation, and simulations; and
- *Workflow Automation and Process Intelligence*: optimizing business processes through intelligent routing, automation, and AI agents.

FINRA also recently identified agentic AI as an emerging trend, as firms increasingly deploy this technology.[9] While AI agents may provide significant efficiencies to firms and their customers, they also present unique risks.[10] Because AI agents operate with autonomy, minimal oversight, and minimal or no human validation and approval, it may be difficult to trace, explain, or audit outcomes.[11] Given limited or no human oversight, misaligned or poorly designed reward functions could result in an AI agent making unintended decisions.[12] A third party providing an AI agent or other GenAI tools can add more complexity. However, firms can manage these and other risks through robust frameworks that appropriately address governance and due diligence, supervision and oversight, contracting terms and conditions, and offboarding protocols.

III. Governance Around GenAI and Vendor Due Diligence

Governance and due diligence are critical controls in any outsourcing arrangement, particularly arrangements where a vendor incorporates GenAI into its products or services.[13] When deciding whether to retain a vendor or which vendor to retain, firms should identify and engage relevant stakeholders across the enterprise, including legal, compliance, risk management/model risk, technology/data science, operations, information security/privacy, and business owners. Regulators have emphasized the importance of implementing formal review and approval processes to evaluate GenAI opportunities and identify the controls necessary to manage unique risks.[14]

Consistent with this expectation, many firms have adopted cross-functional governance committees or working groups to bring appropriate personnel into the conversation early.[15] While firms have flexibility to adopt different governance models tailored to their businesses and regulatory needs, firms should have a comprehensive governance framework with clear accountability, oversight structure, and documented processes to systematically identify, assess, mitigate, and monitor technology risks across the enterprise.[16]

An essential component of this governance framework is due diligence, testing, and evaluation of new vendors and GenAI use cases. Regulators expect that firms will have clear policies and procedures for the development, implementation, use, and monitoring of GenAI that are supported by documentation.[17] Before firms approve any deployment, they should test GenAI models to understand their capabilities and limitations and to assess and mitigate risks. Firms should design testing to enable them to understand the capabilities, limitations, and performance of the model. Testing areas to consider include privacy/data protection, cybersecurity controls, integrity, reliability, and accuracy.[18] For some firms, these review

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functions may occur before escalating a new vendor or GenAI use case to a governance committee or working group. Other firms may perform these tasks at the time the potential use case or vendor is brought to the committee or working group for consideration or approval. Whatever the timing, firms should tailor the scope of due diligence to the function being outsourced and that function's significance to the firm's operations. The more critical the function, the greater the regulatory expectations are for vetting. Firms also should appropriately document their due diligence and decision-making process.

Threshold Questions

When considering a new vendor or use case, a threshold question is "*Can we outsource this function to a third party?*" Securities regulatory requirements generally prohibit firms from outsourcing certain functions that require qualification and registration.[19] If a vendor will likely conduct activities or functions that require registration, firms need a process for determining whether the vendor's personnel will be appropriately qualified and registered.

Firms also may consider the appropriateness of outsourcing a particular function, including the financial, reputational, and operational impact on the firm if the vendor fails to perform; the potential impact on the firm's provision of services to its customers; and the impact on the firm's ability to comply with regulatory requirements and changes to those requirements.[20]

Where a vendor is new to a firm, it is particularly important to assess the counterparty risk from the vendor, for example, by assessing: the financial condition, experience and reputation of the vendor; whether the vendor is a regulated or registered entity; and the background of the vendor's principals.[21] A vendor's geographic location is also important to consider, as it can affect contract enforceability and have other legal ramifications, including regarding privacy laws and cross-border flow of information.[22]

Considerations Related to the Outsourced Activity

Where the vendor will provide or support a critical or regulated function, due diligence considerations also should address:[23]

- Whether the vendor can comply with applicable regulatory requirements and undertakings of the firm. For example, how will the vendor arrangement comply with the firm's obligations related to recordkeeping, communications content standards, data privacy, cybersecurity, and incident response requirements?[24]
- What is the impact on customers or the firm if a vendor fails to perform? What measures can be implemented to mitigate that risk?
- Does the vendor have a business continuity plan ("BCP"), and is it adequate for the outsourced function?
- Does the outsourced use case present cyber risk? If yes, will the firm obtain evaluations of prospective vendors' SSAE 18, SOC 2 Type 2 (System and Organization Control), and other related reports, if available?
- Does the vendor have access to material nonpublic information or confidential firm information? If yes, how will the firm safeguard this information? Securities regulators require firms to have information barriers to prevent the misuse of material nonpublic information, including where such information may be provided to third-party vendors.[25]
- Does the vendor have access to customer information? If yes, were data protection controls validated? Separately, additional requirements apply under SEC Regulation S-P's safeguarding and incident response rules and certain state data privacy laws.[26]
- Will the vendor use subcontractors? If yes, what are the vendor's controls and due diligence of these sub-contractors, particularly if the subcontractor may access sensitive firm or customer information or critical firm systems or will itself provide AI solutions?

Specific Considerations Related to GenAI

Even where a vendor is not engaged to provide GenAI tools, many vendors are now embedding GenAI tools into traditionally non-AI platforms, which can expose firms to GenAI even when they have not directly contracted for those services. Where a vendor provides GenAI functionality, it is particularly important to consider additional issues, including:

- How does the vendor's GenAI model operate?
- What is the extent of human oversight of the model?
- Does the firm understand the potential inputs and limitations on output?
- How does the vendor control for hallucination or bias risk and otherwise monitor performance?
- Are there specific rules and regulations that the GenAI use case implicates that the firm has not considered as part of its typical vendor management process (e.g., SEC Regulation Best Interest)?

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- Does the GenAI use case present unique cybersecurity and data privacy risks?
- How will the firm incorporate the use case in its model risk management framework and policies, procedures, and controls (as applicable)?
- How will the firm address data quality, integrity, retention and data security relating to the model?[27]

These questions are important to help understand and manage GenAI tools that have the potential to exhibit bias or generate hallucinations, or that implicate regulations and risks that the firm may not have considered. These risks can have systemic implications, particularly if the GenAI tool is used in firm decision-making processes or processes that affect customers or compliance outcomes.

IV. Supervision and Oversight

Regulators have emphasized repeatedly the importance of supervision and oversight that is tailored appropriately to an outsourced function.[28] In the context of GenAI, they also have emphasized the importance of developing supervisory and oversight processes at an enterprise level to identify and mitigate associated risks, including accuracy (hallucinations) and bias.[29] To the extent the use of GenAI provided by a vendor could implicate a firm's regulatory obligations, it should be covered by written supervisory procedures.[30] Securities regulators have identified the following examples of effective supervision or oversight practices, which firms may consider:[31]

Periodically testing or reviewing the performance of third-party tools and their accuracy and quality. The nature and frequency of periodic vendor reviews will depend on the services provided and the use case. For example, if a third-party vendor provides a chatbot that is used in customer communications, the firm should review the output as required by FINRA Rule 2210 to confirm that it complies with applicable regulatory requirements, including relevant content standards. FINRA also has stated that firms should consider ongoing monitoring of prompts, responses, and outputs to confirm the GenAI solution continues to perform as expected and results in compliant behavior.[32] This may include storing prompt and output logs for audit purposes, troubleshooting, validation, and "human-in-the-loop" review of model outputs, including performing regular checks for inaccuracy or bias.[33]

Where a firm uses agentic AI, the autonomous nature of AI agents may present novel regulatory, supervisory or operational considerations, such as:

- how does the firm monitor agent system access and data handling;
- where and when should the firm have "human in the loop" oversight protocols or practices;
- how to track agent actions and decisions; and
- how to establish guardrails or control mechanisms to limit or restrict agent behaviors, actions, or decisions.[34]

Overseeing change management. Change management is a critical component of effective third-party risk management. As vendor services evolve, new features—particularly those involving GenAI—can introduce unforeseen risks. These changes may be incremental and easily overlooked. In past guidance, FINRA has identified as a weakness that certain firms did not perform sufficient supervisory oversight of vendors' application and technology changes impacting firm business and compliance processes, especially critical systems (including upgrades, modifications to, or integration of firm or vendor systems).[35] These oversight failures led to violations of regulatory obligations, such as those relating to data integrity, cybersecurity, books and records, and customer confirmations. FINRA also has observed that some firms did not adequately test changes to, or system capacity of, order management, account access, and trading algorithm systems, and as a result, failed to detect underlying malfunctions or capacity constraints.[36]

Periodically testing features and default settings of vendor tools. Firms may consider periodically reviewing (and, as appropriate, adjusting) vendor tool default features and settings, limiting use of communication tools to specific firm-approved features (*e.g.*, disabling a chat feature or reviewing whether the communications are being captured for supervisory review). These reviews also may confirm that appropriate retention periods are in place for data stored on a vendor platform and that data access is appropriately limited.

Testing compliance with contract terms. Separate from the ongoing and periodic monitoring discussed above, firms may establish a control or audit process to confirm that vendors are complying with contractual and regulatory requirements, such as requirements to maintain (and not delete, unless otherwise permitted) firms' books and records. Firms also may consider obtaining periodic representations from certain vendors that the vendors are conducting self-assessments and complying with applicable requirements.

Tracking vendor access/access control. Where firms provide vendors with access to sensitive customer or firm information or access to critical firm systems, firms may institute controls, such as a "policy of least privilege," to grant vendors system and data access only when required and revoke such access when no longer needed or upon termination. Other effective controls may include requiring multi-factor authentication for vendors and contractors.

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Maintaining robust business continuity, disaster recovery, and cybersecurity programs that address operational risks resulting from vendor relationships. If a vendor supports a critical function or has access to sensitive data, firms may consider implementing a process to test vendor controls to identify and respond to data breaches appropriately and to maintain acceptable service levels during disruption of critical systems.[37] For example, firms may include vendors in their cyber preparedness testing (including incident response plan) and BCP testing, as appropriate. They also may receive and review reports on security testing conducted by vendors to identify any control weaknesses that may require remediation (e.g., SOC 2 reports). Additionally, firms may consider conducting their own independent, risk-based reviews to test vendor controls directly and to determine if vendors have experienced any cybersecurity events, data breaches, or other security incidents, as appropriate.

Documenting the steps taken to oversee vendors. Maintaining detailed records of vendor governance, including performance evaluations, audits, and other compliance checks, can help demonstrate to regulators that the firm is fulfilling its supervisory obligations.

In addition to the above practices, it is important to maintain a direct and open line of communication with a dedicated vendor contact so that firms can anticipate and assess prospective changes to services and technology. While supervision, oversight, and open communication are important for all third-party relationships, they are especially critical for vendors that develop, deploy, or incorporate GenAI. The pace at which GenAI technologies evolve—and the ways in which they can change post-implementation—may materially affect a firm's risk profile and compliance obligations.

V. Contract Terms and Conditions

The contracting process is another important step in managing third-party risk. Through this process, firms can build protective provisions into vendor contracts that enable oversight of vendor functions and shield the firm against potential liability. GenAI's fast-paced evolution presents additional challenges, so firms entering contracts involving—or potentially involving—these tools may consider how to integrate GenAI-specific protections into key contractual provisions. For example, firms may consider the following terms and conditions:[38]

- *Scope of services*: Clearly define the services and require disclosure of GenAI components, including embedded or third-party tools, and their intended use. Address the human oversight of GenAI by the vendor and the right of the firm to intervene, if necessary.
- *Intellectual property/data ownership*: Allocate ownership and usage rights for input data, output data, training data, and GenAI models, and clearly define intellectual property rights, as applicable. For example, consider appropriate controls on the use of customer data or any outputs for any purpose that could create reputational risks, as well as rights to use aggregated or anonymized customer data created.
- *Data privacy and security measures*: Specify how different types of firm or customer data can be used, stored, and protected, which may include encryption standards for sensitive information. For example, if the vendor's services implicate Regulation S-P or state data privacy laws, firms may add provisions documenting how the vendor will comply with those requirements (including safeguarding and incident response). Where vendors can access sensitive firm or customer information, firms should add language that prohibits such information from being ingested into an open-source GenAI tool.[39] In addition, the contract should provide for appropriate terms regarding prompt data breach disclosure, root cause analyses, remediation, and cooperation with regulators and other third parties, as well as responsibility for liabilities that may arise. The vendor's rights to use customer data to train any AI model should be addressed clearly.
- *Compliance with applicable laws*: If a vendor's services implicate other rules or regulations (e.g., firm record retention periods), document how the vendor will comply with them. Vendors also should be required to make books and records available to the firm and regulators, as relevant.[40] The vendor should commit that its use of GenAI, as well as its development and training, will comply with all applicable laws.
- *Ongoing disclosure*: Require ongoing disclosure of (1) relevant pending or ongoing litigation, (2) cybersecurity events that may not implicate Regulation S-P or state data privacy laws (including efforts to remediate those events and notification of data integrity and service failure issues), and (3) vendor self-assessments on security and cyber preparedness. The vendor also should be prepared to explain upon request the GenAI systems, models, logic, and decision-making criteria.
- *Service levels*: Establish measurable performance metrics (e.g., uptime/downtime, accuracy, and response time) and require appropriate human oversight for critical decisions.

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- *Audit rights:* Preserve the ability to monitor vendor compliance with contractual and regulatory obligations, including access to relevant documentation and systems, and an ability to conduct direct testing where appropriate.

- *Change notification requirements:* Require advance notice of application or system changes that will materially affect the firm or vendor systems, including the potential introduction or modification of GenAI tools.

- *BCP and cyber preparedness testing:* As relevant, include terms that require vendors to participate in BCP and cyber preparedness testing and provide for the frequency and availability of test results.

- *Use of subcontractors:* Address the use of subcontractors and other "fourth parties," including any required limitations or restrictions.

- *Ethical and responsible use:* Consider appropriate terms regarding the vendor's adherence to principles of fairness, transparency, accountability, and non-discrimination in the design, development, and operation of GenAI.

- *Responsibility and indemnification:* Allocate liability for GenAI-related errors, data breaches, misuse of intellectual property or data, and violations of law. Seek indemnification for third-party claims where appropriate.

- *Termination rights:* Incorporate termination triggers for adverse GenAI-driven events or issues that may give rise to regulatory non-compliance in addition to standard termination provisions.

- *Post-termination obligations:* Provide for the return or destruction of data, access to and retention of records, and transition assistance. As applicable, depending on the use case, contracts should address ownership and disposition of firm and customer data at the end of the vendor relationship, as well as the vendor's responsibility to assist in any transition of services either to the firm directly or its replacement vendor.

By proactively incorporating GenAI-specific protections into vendor contracts, financial institutions can position themselves at the outset to have strong oversight mechanisms, reduced risk exposure, and evidence to support key regulatory obligations throughout the vendor relationship lifecycle.

VI. Offboarding: At and After Termination

A critical, final step in managing third-party risk is addressing residual risks after termination of a vendor relationship. A clearly defined plan for what happens next can alleviate operational, legal, and compliance risks associated with winding down an existing vendor or transitioning to a new one. For example, financial institutions are subject to recordkeeping requirements that may include a minimum retention period. In some cases, firms contract with vendors to maintain records related to the service they provide. Firms entering vendor contracts should ensure that their agreements contemplate suitable retention periods after termination—either by obtaining records from the vendor or having the vendor maintain those records (where permitted).

Vendors also may receive access to confidential, nonpublic, or personally identifiable information. To mitigate the risk of improper use or disclosure and promote compliance with applicable rules and regulation, it is important to establish, in advance, a process for removing vendor entitlements and the return or destruction of sensitive data once the vendor relationship has run its course. Some rights, like audit rights, should survive contract termination. By proactively managing termination-related risks, firms can wind down vendor relationships more effectively and minimize risks associated with the change.

VII. Conclusion

GenAI technology offers financial institutions opportunities to reduce costs, enhance operational efficiency, and provide customers with innovative, new tools. However, it also may introduce unique risks that can complicate regulatory compliance and risk management—particularly in the context of vendor relationships. Many GenAI tools are still nascent and rapidly evolving, but financial regulators expect that firms will continue to meet their regulatory obligations, including with respect to vendor oversight, when using GenAI. By adapting existing frameworks to address GenAI-specific risks, institutions can better position themselves to handle these challenges. Being proactive can help firms navigate this rapidly evolving area. ■

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[1] **Stephanie Nicolas and Robert Finkel are Partners at WilmerHale; Kyle Swan is a Counsel at WilmerHale. This article is valid as of March 16, 2026. Portions of this article may have been used in other publications.**

[2] *See, e.g.*, FINRA, *FINRA Annual Regulatory Oversight Report for 2026* (Dec. 2025) ("2026 FINRA Report"), https://www.finra.org/sites/default/files/2025-12/2026-annual-regulatory-oversight-report.pdf (identifying common GenAI use cases and noting that "Generative AI (GenAI) use cases are emerging quickly in the financial industry"); U.S. Department of the Treasury, *Artificial Intelligence in Financial Services* (Dec. 2024) ("2024 Treasury Report"), https://home.treasury.gov/system/files/136/Artificial-Intelligence-in-Financial-Services.pdf (noting that "AI is used increasingly throughout the financial sector to support a broad range of functions and firms" and more recently there has been a "marked a major shift from traditional AI with an acceleration in the development of emerging AI technologies – such as deep learning models utilizing neural networks and 'Generative AI.'").

[3] *See, e.g.*, 2026 FINRA Report; SEC, Division of Examinations, *2026 Examination Priorities* (Nov. 2025), https://www.sec.gov/files/2026-exam-priorities.pdf; CFTC Staff Advisory, *Re: Use of Artificial Intelligence in CFTC-Regulated Markets*, CFTC Letter No. 24-17 (Dec. 5, 2024); FINRA, Regulatory Notice 24-09 (June 27, 2024), https://www.finra.org/rules-guidance/notices/24-09; Office of the Comptroller of the Currency ("OCC"), *Financial Technology*, https://www.occ.gov/topics/supervision-and-examination/financial-technology/index-financial-technology.html (last accessed Mar. 16, 2026).

[4] *See, e.g.*, Chairman Paul Atkins, SEC, *Remarks at Financial Stability Oversight Council Artificial Intelligence Innovation Series Roundtable on Strategy and Governance Principles* (Mar. 4, 2026), https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-at-financial-stability-oversight-council-artificial-intelligence-innovation-series-roundtable-030426; FINRA, Regulatory Notice 24-09; 2024 Treasury Report. This technology-neutral approach has been endorsed by leading securities and financial markets industry trade groups as promoting investor protection without stifling innovation. *See* SIFMA and SIFMA AMG, *Promoting Investor Success, Investor Innovation, and Efficiency with AI* (Sept. 2024), https://www.sifma.org/wp-content/uploads/2024/09/AI-Whitepaper-Promoting-Investor-Success-Industry-Innovation-and-Efficiency-with-AI.pdf.

[5] *See* FINRA, Regulatory Notice 24-09.

[6] *See* 2026 FINRA Report. *See also* The Board of Governors of the Federal Reserve System ("Federal Reserve"), Federal Deposit Insurance Corporation ("FDIC"), OCC, and the U.S. Department of the Treasury, *Interagency Guidance on Third-Party Relationships: Risk Management*, 88 Fed. Reg. 37920 (June 9, 2023) ("Interagency Guidance")

[7] *Id.*

[8] *See* FINRA, *How FINRA Member Firms Use GenAI*, https://www.finra.org/sites/default/files/2025-07/How%20Memeber%20Firms%20Use%20GenAI.pdf.

[9] *See* Greg Ruppert, FINRA, *Emerging Trend in Gen AI: Observation on AI Agents* (Jan. 27, 2026), https://www.finra.org/media-center/blog/observations-on-ai-agents ("Given the rapid growth in GenAI capabilities, AI agents will likely become more prevalent and sophisticated in the years ahead. As their performance improves, AI agents will likely handle increasingly complex and sensitive functions.")

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *See, e.g.*, 2026 FINRA Report; FINRA, Regulatory Notice 21-29 (Aug. 13, 2021), https://www.finra.org/rules-guidance/notices/21-29.

[14] *See, e.g.*, 2026 FINRA Report; Federal Reserve, *Supervisory Guidance on Model Risk Management*, Supervision and Regulation Letter 11-7 (Apr. 4, 2011); OCC, *Sound Practices for Model Risk Management: Supervisory Guidance on Model Risk Management*, Bulletin 2011-12 (Apr. 4, 2011); and FDIC, *Adoption of Supervisory Guidance on Model Risk Management*, Financial Institution Letter-22-2017 (June 7, 2017).

[15] 2026 FINRA Report (noting the importance of "[e]stablishing a comprehensive technology governance framework with clear accountability, oversight structures and documented processes to systematically identify, assess, mitigate and monitor technology risks across the enterprise."). In determining appropriate stakeholders, firms may also consider incorporating protocols to avoid conflicts of interest. For example, firms may require staff involved in vendor selection processes to disclose any personal relationship with the vendor. Firms may also consider restrictions or prohibitions on staff receiving compensation or gifts from potential or current vendors, which could influence the decision to select, or maintain a relationship with, a particular vendor. *See* FINRA, Regulatory Notice 21-29.

[16] 2026 FINRA Report (discussing the importance of a formal review and approval process to evaluate enterprise-wide GenAI opportunities); Interagency Guidance.

[17] *See* 2026 FINRA Report.

[18] *See* 2026 FINRA Report; *see also* CRI Financial Services AI Risk Management Framework Guidebook (Feb. 2026), *available at* https://cyberriskinstitute.org/artificial-intelligence-risk-management/ ("FS AI RMF Guidebook") (developed in collaboration with the U.S. Department of the Treasury).

[19] *See* NASD, Notice to Members 05-48 (July 22, 2005), https://www.finra.org/rules-guidance/notices/05-48 ("the performance of covered activities, which require qualification and registration, cannot be deemed to have been outsourced because the person performing the activity is an associated person of the member irrespective of whether such person is registered with the member"). An exception is where a third-party service provider is separately registered as a broker-dealer and the arrangement is contemplated by FINRA rules or other applicable securities law. *See also* FINRA, Regulatory Notice 21-29.

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[20] *See* FINRA, Regulatory Notice 21-29; *see also* Interagency Guidance (offering the agencies' views on sound risk management principles for banking organizations when developing and implementing risk management practices for all stages in the life cycle of third-party relationships).

[21] *See id.*

[22] *See* Interagency Guidance.

[23] These considerations are based on FINRA, Regulatory Notice 21-29.

[24] *See, e.g.*, Regulation S-P, 17 C.F.R. Part 248, Subpart A (data privacy requirements for broker-dealers, investment companies, and SEC-registered investment advisers); 17 C.F.R. § 240.17a-3, 17a-4 (record creation and recordkeeping requirements for broker-dealers). Certain states also have data privacy, incident response, and business continuity requirements that may apply to vendor arrangements and should be considered. *See, e.g.*, N.Y. Dep't of Fin. Serv., 23 NYCRR 500.

[25] For example, Section 15(g) of the Securities Exchange Act of 1934 ("Exchange Act") requires broker-dealers to establish, maintain and enforce written policies and procedures designed to prevent the misuse of material nonpublic information.

[26] .Regulation S-P requires broker-dealers to have written policies and procedures that address administrative, technical and physical safeguards for the protection of customer records and information that are reasonably designed to: (1) ensure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of customer records and information; and (3) protect against unauthorized access to or use of customer records or information that could result in substantial harm or inconvenience to any customer. These procedures must include an incident response plan for data breaches and the proper disposal of customer information. These procedures must include oversight (through diligence and monitoring) of third-party service providers that receive, maintain, process or otherwise access customer information.

[27] *See* 2026 FINRA Report (noting the importance of "[e]stablishing a supervision, governance or model risk management framework that establishes clear policies and procedures for AI/LLM development, implementation, use and monitoring, while maintaining comprehensive documentation throughout. Ensuring comprehensive data management in AI/LLM systems address data quality, integrity, retention and data security.").

[28] NASD, Notice to Members 05-48 ("outsourcing an activity or function to ... [a Vendor] does not relieve members of their ultimate responsibility for compliance with all applicable federal securities laws and regulations and [FINRA] and MSRB rules regarding the outsourced activity or function). *See also* FINRA, Regulatory Notice 21-29 ("firms have a continuing responsibility to oversee, supervise and monitor the Vendor's performance of the outsourced activity or function.").

[29] 2026 FINRA Report (noting that firms should have supervisory processes to address GenAI use, including to identify and mitigate hallucinations, bias, and ensure the firm's existing cybersecurity governance program adequately addresses risks from GenAI use). Bias refers to situations where a model's outputs are skewed or incorrect due to model design decisions or data that is limited or inaccurate, including outdated training data leading to concept drifts. *Id.*

[30] FINRA, Regulatory Notice 21-29; 2026 FINRA Report. WSPs should address the roles and responsibilities for firm staff who supervise vendor activities. *Id.*

[31] These examples are identified in FINRA, Regulatory Notice 21-29. *See also* FS AI RMF Guidebook (listing 230 AI-related "control objectives").

[32] *See* 2026 FINRA Report.

[33] *Id.*

[34] *Id.*

[35] FINRA, Regulatory Notice 21-29.

[36] *Id.*

[37] 2026 FINRA Report.

[38] The following list incorporates guidance in FINRA, Regulatory Notice 21-29, which provides examples of effective practices that firms may consider.

[39] 2026 FINRA Report.

[40] FINRA has identified as a deficiency firms' failures to confirm that service contracts and agreements comply with requirements to notify FINRA under Exchange Act Rule 17a-4(f)(2)(i), including a representation that the selected electronic storage media used to maintain firms' books and records meets the conditions of Rule 17a-4(f)(2) and a third-party attestation as set forth in Rule 17a-4(f)(3)(vii). *See* Regulatory Notice 21-29.

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2026 SEC Examination Priorities –

https://www.sec.gov/files/2026-exam-priorities.pdf

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disclosure requirements for Form N-PORT, and the SEC proposed to provide an additional fifteen days to file monthly reports of portfolio-related information (45 days rather than 30 days). The proposal would also require public disclosure of portfolio holdings every quarter rather than every month. In the interim, the SEC extended the compliance date for the amendments to Form N-PORT that relate to the Names Rule.[10]

SEC proposes amendments to Rule 15c2-11

The SEC proposed amendments to Exchange Act Rule 15c2-11.[11] Rule 15c2-11 provides that a broker-dealer may not publish any quotation for a security in any quotation medium unless it has obtained certain information regarding the issuer and has a reasonable basis to believe that the information is accurate and obtained from a reliable source. Until recently, many broker-dealers had assumed that Rule 15c2-11 applies only to equity securities. However, the SEC in 2020 and 2021 clarified that 15c2-11 applies to all securities other than municipal securities and government securities, and not just equity securities. In the years since, the Commission has granted exemptive relief,[12] and the staff has issued a series of no-action letters.[13] The proposed amendments would replace the term "security" with "equity security" in the text of the rule, thereby excluding fixed income securities entirely.

SEC staff updates enforcement manual

The SEC Division of Enforcement amended its enforcement manual. The revised manual reflects various changes to SEC policy, including the following:

- *Formal Orders.* In March of 2025, the SEC amended its regulations to eliminate the delegation of authority to the Director of the Enforcement Division to issue formal orders of investigation.[14] Enforcement staff are now required to seek formal orders from the Commission. The revised manual requires staff to prepare and submit a memorandum describing an investigation and the need for a formal order, along with a draft of the formal order, for review by the Office of the Director of the Enforcement Division. Once reviewed and approved by the Office of the Director, the staff must submit the memorandum and proposed formal order to the Commission.

- *Wells Process.* The revised manual also incorporates changes to the Wells process announced by Chair Atkins in October of 2025.[15] A recipient of a Wells notice will now have four weeks to respond. They may also request a meeting with the staff to discuss the substance of the staff's proposed recommendation after their Wells submission. The meeting will include a member of senior leadership at the Associate Director level or above. The staff is also directed to provide more information to respondents than the staff has traditionally provided. In particular, staff is directed to "inform the recipient of the Wells notice of the salient, probative evidence that the staff has gathered or received, which the staff may have or should have reason to believe may not be known to the recipient." The staff is required to obtain an Associate Director or Unit Chief's approval and then approval from the Office of the Director before issuing a Wells notice or determining to recommend an enforcement action without issuing a Wells notice.

- *Waivers.* The revised manual allows respondents to submit settlement offers to the Commission accompanied by simultaneous requests for a waiver of certain automatic disqualifications resulting from the settlement. The manual directs staff to present for the Commission's simultaneous consideration both the offer of settlement and the waiver request, along with recommendation(s) from the relevant Division(s).

- *Cooperation.* Lastly, the manual provides additional guidance on cooperation credit and establishes a new "Cooperation Committee," which will oversee and administer the SEC's cooperation program.

There are other material changes to the enforcement manual, including changes related to action memoranda, the SEC's criminal referral policy, statutes of limitations and tolling and document preservation.

Chair Atkins and Commissioner Peirce preview innovation exemption

SEC Chair Paul Atkins and Commissioner Hester Peirce discussed the SEC's planned "innovation exemption" at the "ETHDenver" event in February.[16] Last year, Chair Atkins said that the SEC is considering an "innovation exemption that would allow registrants and non-registrants to quickly go to market with new business models and services that do not neatly fit within our existing rules and regulations."[17] In his February remarks, Chair Atkins provided some additional details. He said he "would like to consider an innovation exemption to enable TradFi incumbents and crypto-native firms to experiment." The innovation exemption may allow investors to "trad[e] tokenized securities through automated market makers, even though no one person or group of persons may be controlling the mechanism." He also said that "market participants should be able to engage with decentralized applications on public, permissionless blockchains if they desire." The exemption would be temporary, and it would limit

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trading volume. In addition, those trading tokenized securities would "go through a white-listing process."

SEC and CFTC announce memorandum of understanding

The SEC and the CFTC entered into a memorandum of understanding ("MOU").[18] According to a fact sheet, under the MOU, the SEC and the CFTC will clarify product definitions through joint interpretations and rulemakings; modernize clearing, margin and collateral frameworks; reduce friction for dually registered entities; provide a fit-for-purpose regulatory framework for crypto assets; streamline regulatory reporting for trade data, funds and intermediaries; and coordinate cross-market examinations, economic analyses, risk monitoring, surveillance and enforcement.[19] The SEC and the CFTC have worked together closely under SEC Chair Atkins, former Acting CFTC Chair Caroline Pham and current CFTC Chair Michael Selig. They have hosted joint events[20], collaborated on crypto regulation[21] and issued a joint statement[22] on regulatory harmonization.

SEC staff issues statement on tokenized securities and grants exemptive relief for secondary trading of tokenized WisdomTree money market mutual fund

SEC staff issued a statement on tokenized securities.[23] The statement describes two categories of tokenized securities: (i) securities tokenized by or on behalf of the issuers of such securities ("Issuer-Sponsored Tokenized Securities"); and (ii) securities tokenized by third parties unaffiliated with the issuers of such securities ("Third Party-Sponsored Tokenized Securities"). SEC staff provided guidance on the application of the federal securities laws to both categories of tokenized securities. In the context of Issuer-Sponsored Tokenized Securities, the staff explained that "[t]he format in which a security is issued or the methods by which holders are recorded (*e.g.*, onchain vs. offchain) does not affect the application of the federal securities laws." The staff also described two models of Third-Party Tokenized Securities: "Custodial Tokenized Securities" (*i.e.*, tokenized security entitlements) and "Synthetic Tokenized Securities" (*i.e.*, "linked securities" and security-based swaps).

Separately, the SEC granted a request for exemptive relief submitted by certain WisdomTree affiliates to permit the purchase and sale of tokenized money market mutual fund ("MMF") shares by a "Covered Dealer" at a fixed price of $1.00.[24] Typically, dealers are required to transact in MMF shares at net asset value. The exemptive relief will allow dealers to provide liquidity to shareholders by exchanging MMF shares for stablecoin or stablecoin for shares on chain continuously throughout the day and will increase the speed of settlement.

SEC staff clarifies net capital treatment of payment stablecoins

The Division of Trading and Markets clarified the treatment of payment stablecoins held by broker-dealers under Exchange Act Rule 15c3-1 (*i.e.*, the broker-dealer net capital rule).[25] In a frequently asked question, the staff said that they will not object if "a broker-dealer treats a proprietary position in payment stablecoin as having a 'ready market' under Rule 15c3-1, and takes a haircut of 2% of the market value of the greater of the long or short proprietary position in payment stablecoin in calculating its net capital." The definition of "payment stablecoin" is transitional. Before the Guiding and Establishing National Innovation for U.S. Stablecoins Act ("GENIUS Act") takes effect, "payment stablecoin" will include USD-denominated stablecoins that are issued by a state-regulated money transmitter, state-regulated trust company or a national trust bank and meet certain other requirements. Once the GENIUS Act takes effect, "payment stablecoin" will include any stablecoin that meets the requirements contained in the GENIUS Act's definition of "payment stablecoin" and is issued by a "permitted payment stablecoin issuer" or a "foreign payment stablecoin issuer" that complies with the GENIUS Act's requirements applicable to such issuers.

SEC staff grants no-action relief to real estate development company

The Division of Corporation Finance issued no-action relief allowing MegPrime Holding LLC to issue a digital token as part of a consumer finance rewards program.[26] MegPrime Holding will issue "MegPrime tokens" that users can spend on day-to-day purchases. Users that spend MegPrime tokens "will receive a percentage of their spend back in the form of additional MegPrime Tokens." In addition, MegPrime tokens can be used to purchase discounted gift cards. Users will also accumulate points based on the amount of MegPrime tokens they spend, which they can redeem for specific rewards. The Division said that it will not recommend enforcement action under Section 5 of the Securities Act or Section 12(g) of the Exchange Act.

SEC issues interpretive guidance on Exchange Act Section 13

The SEC Division of Corporation Finance issued an interpretive letter to Bank of America regarding Section 13 of the Exchange Act.[27] Section 13(d)(1) and Section 13(g)(1) require the beneficial owners of five percent or more of any class of securities registered under Section 12 of the Exchange Act to file reports

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with the Commission. Under certain circumstances, when two or more persons together acquire more than five percent of a class of securities, Section 13(d)(3) and Section 13(g)(3) will deem them to be a single "person" for purposes of Section 13(d)(1) and Section 13(g)(1). The interpretive letter allows Bank of America, N.A., BofA Securities, Inc. and their affiliates to enter into over-the-counter derivatives contracts referencing equity or other securities without including securities purchased by their counterparty in calculating the shares they beneficially own under Section 13. The interpretive guidance is subject to several conditions.

Division of Corporation Finance issues several Compliance and Disclosure Interpretations

The Division of Corporation Finance issued several Compliance and Disclosure Interpretations during the first quarter of 2026.[28] The Division issued interpretations on January 23, February 11, February 17 and March 6. The interpretations cover a range of issues, including Section 5 of the Securities Act of 1933 ("Securities Act"), proxy rules and Schedules 14A and 14C, Rule 14e-5 and tender offers, Form S-4, take-private transactions, Regulation Crowdfunding, Regulation S-K and compensatory securities offerings under Securities Act Rule 701. Chair Atkins has said he would like to ease the burden on companies seeking capital from U.S. investors. Among other initiatives, he intends to encourage companies to go public[29], and he has directed staff to "engage in a comprehensive review of Regulation S-K."[30]

FINRA implements its "FINRA Forward" Initiative

The FINRA issued guidance and adopted various amendments to its rules as part of the "FINRA Forward Initiative." *First*, FINRA discontinued its practice of reviewing "negative consent letters" in connection with the transfer or assignment of customer accounts.[31] Negative consent letters inform customers that their accounts will be transferred or assigned unless they expressly object to the transfer or assignment. *Second*, FINRA amended its capital acquisition broker ("CAB") rules[32]. CABs are FINRA members that engage in limited capital-raising activities. The amendments allow CABs to engage in a broader range of activities, codify prior FINRA staff guidance on the receipt of securities as compensation and revise the "private securities transaction" rule for CABs to better align with the private securities transaction rule for other FINRA members (*i.e.*, FINRA Rule 3280). *Third*, FINRA amended FINRA Rule 3220, which is commonly known as the "Gifts Rule."[33] The amendments increase the gift limit from $100 to $300 per person per year, codify current guidance and provide for exemptive relief.

FINRA has proposed further amendments to its rules. FINRA has proposed to replace FINRA Rule 3270 ("Outside Business Activities") and FINRA Rule 3280 ("Private Securities Transactions") with a new rule, FINRA Rule 3290.[34] Among other changes, Rule 3290 would narrow the scope of FINRA's "outside activities" rules to focus on "investment-related activities." FINRA has also proposed amendments to Rule 5110, which applies to underwriting arrangements, and Rule 2210, which applies to "retail communications" distributed by member firms. Lastly, FINRA is seeking comments on its arbitration process.

MSRB advances rule modernization initiatives and proposes amendments to its supervision rule

The MSRB has pursued its own rule modernization initiatives. In January, the MSRB published a request for comment ("RFC") on draft amendments to MSRB Rule G-27, which imposes supervisory obligations on member firms.[35] The draft amendments would clarify the definition of "office of municipal supervisory jurisdiction" and would expand an exemption from branch office registration that allows associated persons to work from locations other than primary residences. The MSRB also authorized various other rule modernization initiatives.[36]

FEDERAL BANKING REGULATORS

OCC proposes GENIUS Act implementation rules

On February 25, 2026, the OCC issued a notice of proposed rulemaking to implement the GENIUS Act with respect to the issuance of payment stablecoins and certain related activities by entities subject to the OCC's jurisdiction.[37] The GENIUS Act, enacted on July 18, 2025, established a regulatory framework for payment stablecoins and generally prohibits any person other than a permitted payment stablecoin issuer from issuing payment stablecoins.[38] Topics addressed by the proposed rule include, among others, permitted reserve assets, redemption requirements, custody obligations, and permissible activities for stablecoin issuers.[39] Notably, the proposed rule would create a presumption that certain third-party arrangements would violate the GENIUS Act's prohibition on permitted payment stablecoin issuers from paying any sort of yield or interest on stablecoins.[40] The OCC plans to promulgate other rules under the GENIUS Act relating to the Bank Secrecy Act, anti-money laundering ("AML"), and the Office of Foreign Assets Control ("OFAC") sanctions in coordination with the Department of the Treasury.[41]

FDIC approves Industrial Loan Companies

The FDIC recently approved the deposit insurance applications for Ford Motor Company to establish Ford Credit Bank;[42]

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General Motors Company to establish GM Financial Bank;[43] and Jones Financial Companies to establish Edward Jones Bank.[44] All three will be Utah-chartered industrial banks, also known as "industrial loan companies" ("ILCs").[45] ILCs are state-chartered, FDIC-insured banks that allow corporate owners to own such banks without becoming subject to the requirements of the Bank Holding Company Act.[46] FDIC approvals of ILC deposit insurance applications were previously subject to a three-year moratorium imposed under the Dodd-Frank Act ("Dodd-Frank") that expired in July 2013.[47] Ford Credit Bank and GM Financial Bank will provide automotive financing products, primarily through the purchases of retail installment sales contracts from independent Ford dealers and General Motors Financial Company, respectively.[48] Funding for both will primarily consist of savings accounts and time deposits.[49] Edward Jones Bank will provide securities-based loans funded by sweep deposits from Edward D. Jones & Co, another subsidiary of the Jones Financial Companies.[50]

Agencies clarify the capital treatment of tokenized securities

On March 5, 2026, the federal banking agencies jointly issued answers to frequently asked questions ("FAQ") clarifying the capital treatment of tokenized securities.[51] The agencies said that tokenized securities should "generally receive the same capital treatment as the non-tokenized form of the security under the capital rule," as "the [agencies'] capital rule is technology neutral."[52] The FAQ responses also noted that tokenized securities can qualify as financial collateral for purposes of the capital rule and would be subject to the same haircuts as the non-tokenized form of the security.[53] Additionally, capital treatment of tokenized securities does not depend on whether they were issued on permissioned or permissionless blockchains.[54]

Prudential regulators release Dodd-Frank stress test scenarios

In February 2026, the federal banking agencies released finalized hypothetical economic scenarios for use in their annual stress tests.[55] Under Dodd-Frank, certain large federally-regulated banking organizations are subject to stress tests under scenarios released by the federal banking agencies.[56] For certain banking organizations regulated by the Fed, the banking organization's performance on its stress test can impact the amount of capital the banking organization is required to hold under the Fed's stress capital buffer framework. Notably, the Fed voted to maintain the current stress capital buffer requirements until 2027.[57]

The Fed's finalized scenarios were subject to public comment for the first time.[58] Fed Governor Lisa Cook criticized this decision, noting that "when the effective date of the hypothetical stress scenarios occurs after the scenarios are released for comment, as they were this year, some banks may have real economic incentives to temporarily adjust their balance sheets to the details of the scenario, for example, by reshuffling their securities portfolios to artificially reduce stressed losses."[59] Fed Governor Michael Barr, the only governor dissenting on the scenarios, said that the decision to subject stress testing to notice and comment has caused the tests to "stagnate."[60]

Federal Reserve introduces proposal to remove reputation risk from supervision

On February 23, the Fed requested comment on a proposal to codify the removal of reputation risk from bank supervision.[61] The proposal defines "reputation risk" as the "potential that negative publicity regarding a banking organization's business practices, whether true or not, will cause a decline in the banking organization's customer base, costly litigation, or revenue reductions."[62] According to the Fed, removal of reputation risk will allow the Fed to better focus its supervisory efforts on core financial risks.[63] Additionally, the Fed noted that the safety and soundness concerns that motivated the inclusion of reputation risk are already covered by existing risk types such as credit, market, liquidity, operational, and legal risk.[64] This formal proposal came after the Fed's June 2025 announcement that reputation risk would no longer be a component of examination programs in its supervision of banks.[65] It also followed an October 2025 joint proposal by the OCC and FDIC to codify the removal of reputation risk from those agencies' supervisory programs.[66]

OCC amends national bank chartering rule

The OCC recently finalized a rulemaking related to its national bank chartering powers.[67] The final rule amends 12 C.F.R. § 5.20 to "change references from 'fiduciary activities' to 'operations of a trust company and activities related thereto.'"[68] Before the change, the regulation provided that a national bank may limit its activities to "fiduciary activities" or one of three non-fiduciary activities: receiving deposits, paying checks, or lending money.[69] By changing fiduciary activities to operations of a trust company and activities related thereto, the OCC clarified that a national bank limited to such activities—commonly referred to as a "national trust bank"—is not required to limit its activities to fiduciary services. This position is reflected in recent national trust bank charter approvals, which permit national trust banks to engage in a broad range of fiduciary and non-fiduciary activities related to crypto assets.[70]

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Federal Reserve Bank of Kansas City approves master account for Kraken

On March 4, 2026, the Federal Reserve Bank of Kansas City ("Kansas City Fed") announced that it had approved a limited purpose master account for Kraken Financial ("Kraken"), a Wyoming-based Special-Purpose Depository Institution ("SPDI") that provides services for cryptocurrency companies.[71] The Kansas City Fed describes Kraken's master account as "a limited purpose account for an initial term of one year that includes restrictions and limitations tailored for Kraken Financial's business model and risk profile that are appropriate to mitigate risks identified in the [Federal Reserve's Account Access] Guidelines."[72] This decision comes after the Fed requested public input in December of 2025 on a "payment account" that would allow financial institutions to clear and settle payments.[73] This sort of account would include access to Fed payment services but not include other Fed benefits, such as interest on reserves or access to the discount window.[74] Kraken's approval marks a shift from past Fed practice. In 2023, for example, the Fed rejected the master account application for Custodia Bank, another Wyoming-based SPDI, which led to litigation.[75] The Fed has also defended its ability to exercise discretion over master account access in a number of other cases.[76]

BSA/AML

FinCEN grants exceptive relief from certain beneficial owner verification requirements

On February 13, 2026, FinCEN issued an order granting exceptive relief to covered financial institutions from certain customer due diligence requirements involving beneficial owners.[77] Specifically, "[r]ather than having to identify and verify a legal entity customer's beneficial owners each time that customer opens an account," covered financial institutions are permitted to instead limit their identification and verification of the identity of beneficial owners to three main circumstances: (i) when a legal entity customer first opens an account; (ii) any time thereafter when the financial institution "has knowledge of facts that would reasonably call into question the reliability of beneficial ownership information previously obtained about the legal entity customer;" and (iii) as needed "based on a covered financial institution's risk-based procedures for conducting ongoing customer due diligence."[78] FinCEN's order explains that "relieving covered financial institutions of the obligation to identify and verify a legal entity customer's beneficial owners at each new account opening is unlikely to undermine the [Bank Secrecy Act's] risk-based framework."[79] In an accompanying press release, FinCEN director Andrea Gacki stated that the relief "supports a more efficient, risk-based approach to customer due diligence and reduces unnecessary regulatory burden without weakening the foundational requirements that protect the U.S. financial system."[80]

CFPB

GAO releases report regarding CFPB reorganization efforts

On January 27, 2026, the Government Accountability Office ("GAO") released a report regarding the status of the CFPB, following a request from Democratic members of the Senate Banking Committee and the House Financial Services Committee.[81] The report focuses on the status of the reorganization efforts of the CFPB and explains that, since February 2025, the CFPB has taken a variety of actions to reduce the size and scope of its activities, including "issuing stop-work orders; closing supervisory examinations; and terminating employees, contracts, and enforcement cases."[82] However, the report notes that some of these actions are subject to ongoing litigation and have yet to be finalized.[83] According to the GAO report, the CFPB has withdrawn or rescinded over 60 guidance documents as of August 2025 and dismissed several enforcement actions.[84] In a letter to the GAO that was published as part of the report, the CFPB indicated that it disagreed with the GAO's findings, which it described as "full of biased and incomplete information."[85] Moving forward, the GAO indicated that it intends to release a subsequent report analyzing whether the CFPB's reorganization efforts will affect its ability to fulfill its statutorily mandated functions.[86]

CFTC

CFTC staff reissues Staff Letter 25-50 to add additional no-action position on CPO delegation arrangements[87]

The CFTC has reissued Staff Letter 25-50 to expand its no-action positions regarding commodity pool operator (CPO) registration. Staff Letter 25-50 previously granted no-action for CPOs who are registered investment advisers operating privately offered commodity pools to qualified eligible persons (QEPs). Prior to 25-50, the CFTC issued Staff Letter 14-126, which provides no-action to CPOs who delegate their CPO responsibility to designated registered CPOs. In response to a request from the Managed Funds Association, the CFTC clarified the interaction between 25-50 and 14-126. Under the reissued letter, staff will not recommend enforcement where unregistered designated CPOs meet certain criteria of 14-126 and qualify for no action under 25-50.

CFTC Enforcement Division issues prediction markets advisory[88]

The CFTC issued an advisory following the publication of two enforcement cases involving fraud and the misuse of nonpublic information related to events contracts traded on KalshiEX. In

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one instance, Kalshi imposed a $2,246.36 penalty and a 5-year suspension against a political candidate who posted social media videos showing himself trading his own candidacy on Kalshi. The candidate potentially violated Commody Exchange Act (CEA) and Commission rules dealing with manipulative and fraudulent practices. In the second matter, Kalshi imposed a $20,397.58 penalty and 2-year suspension against a trader who traded an event contract while having an employment relationship with the subject of the contract. Kalshi's investigation revealed the trader likely had access to non-public information in violation of CEA and Commission Regulation rules. Although Kalshi's internal enforcement program handled the matters, the CFTC emphasized its authority to police illegal trading practices on designated contract markets.

CFTC reaffirms exclusive jurisdiction over prediction markets in U.S. circuit court filing[89]

The CFTC filed an amicus curiae brief in the Ninth Circuit confirming its exclusive jurisdiction over the U.S. commodity derivatives market. The brief was filed in support of North American Derivatives Exchange, Inc.'s appeal of the District of Nevada's order denying the request to enjoin Nevada gaming regulators from taking action against its sports-based event contracts. In the brief, the CFTC noted that state efforts to regulate or prohibit event contracts as gambling are preempted. "CFTC-registered exchanges have faced an onslaught of lawsuits seeking to limit Americans' access to event contracts and undermine the CFTC's sole regulatory jurisdiction over prediction markets. This power grab ignores the law and decades of precedent," commented CFTC Chairman Michael Selig. The amicus brief is one of only eight submitted by the CFTC since 2000.

LEGISLATION

Senate Agriculture Committee advances Digital Commodities Intermediaries Act

On January 29th, the Senate Committee on Agriculture, Nutrition and Forestry advanced the "Digital Commodity Intermediaries Act," which would provide for the regulation of intermediaries in crypto spot markets by the CFTC.[90] The Digital Commodity Intermediaries Act is one of several crypto market structure bills currently under consideration in Congress. The House of Representatives passed the Digital Asset Market Clarity Act of 2025 ("CLARITY Act") in July of 2025. ■

**Josh Nathanson, Evan Goldsholle and Annaka Merrick contributed to this column.*

[1] Holding Foreign Insiders Accountable Act Disclosure, 91 Fed. Reg. 10320 (Mar. 3, 2026).

[2] Order Granting Directors and Officers of Certain Foreign Private Issuers an Exemption from the Filing Requirements of Section 16(a) of the Exchange Act, 91 Fed. Reg. 11587 (Mar. 10, 2026).

[3] Division of Corporation Finance, U.S. Securities and Exchange Commission ("SEC"), *Holding Foreign Insiders Accountable Act Frequently Asked Questions* (Mar. 9, 2026), https://www.sec.gov/about/divisions-offices/division-corporation-finance/holding-foreign-insiders-accountable-act-frequently-asked-questions.

[4] Investment Company Names, 88 Fed. Reg. 70436 (Oct. 11, 2023).

[5] Form N-PORT and Form N-CEN Reporting; Guidance on Open-End Fund Liquidity Risk Management Programs, 89 Fed. Reg. 73764 (Sept. 11, 2024).

[6] Petition for Review, *Registered Funds Ass'n v. Sec. & Exch. Comm'n*, No. 24-60550 (5th Cir. filed Oct. 29, 2024).

[7] Investment Company Names; Extension of Compliance Date, 90 Fed. Reg. 13076 (Mar. 20, 2025).

[8] Division of Investment Management, SEC, *2025–26 Names Rule FAQs* (Feb. 18, 2026), https://www.sec.gov/rules-regulations/staff-guidance/division-investment-management-frequently-asked-questions/2025-26-names-rule-faqs.

[9] Form N-PORT Reporting, 91 Fed. Reg. 8582 (Feb. 23, 2026).

[10] Investment Company Names Form N-PORT Reporting; Extension of Compliance Date, 91 Fed. Reg. 8379 (Feb. 23, 2026).

[11] Publication or Submission of Quotations Without Specified Information, Exchange Act Release No. 105004 (Mar. 16, 2026).

[12] Order Granting Broker-Dealers Exemptive Relief, Pursuant to Section 36(a) and Rule 15c2-11(g) under the Securities Exchange Act of 1934, from Rule 15c2-11 for Fixed-Income Securities Sold in Compliance with the Safe Harbor of Rule 144A under the Securities Act of 1933, 88 Fed. Reg. 75343 (Nov. 2, 2023)

[13] *See* FINRA SEC No-Action Letter (Nov. 22, 2024), https://www.sec.gov/files/investment/no-action/fixed-income-rule-15c2-11-no-action-letter-finra-112224.pdf.

[14] Delegation of Authority to Director of the Division of Enforcement, 90 Fed. Reg. 12105 (Mar. 14, 2025).

[15] Paul S. Atkins, Chairman, SEC, *Keynote Address at the 25th Annual A.A. Sommer, Jr. Lecture on Corporate, Securities, and Financial Law* (Oct. 7, 2025), https://www.sec.gov/newsroom/speeches-statements/atkins-100925-keynote-address-25th-annual-aa-sommer-jr-lecture-corporate-securities-financial-law.

[16] Paul S. Atkins, Chairman, & Hester M. Peirce, Commissioner, SEC, *Number Go Down and Other Schadenfreude—Remarks at ETHDenver* (Feb. 18, 2026), https://www.sec.gov/newsroom/speeches-statements/atkins-peirce-021826-number-go-down-other-schadenfreude.

[17] Paul S. Atkins, Chairman, SEC, *American Leadership in the Digital Finance Revolution* (July 31, 2025), https://www.sec.gov/newsroom/speeches-statements/atkins-digital-finance-revolution-073125.

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[18] SEC, U.S. Commodity Futures Trading Commission ("CFTC"), *Memorandum of Understanding Between the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission Regarding Harmonization in Areas of Common Regulatory Interest* (Mar. 11, 2026), https://www.sec.gov/files/mou-sec-cftc-2026.pdf.

[19] CFTC, *Fact Sheet: Memorandum of Understanding Between the Securities and Exchange Commission and the Commodity Futures Trading Commission* (Mar. 11, 2026), https://www.cftc.gov/media/13481/mou-sec-cftc-2026-fact-sheet/download.

[20] *See* Press Release, SEC, *SEC and CFTC to Hold Joint Event on Harmonization, U.S. Financial Leadership in the Crypto Era, Release No. 2026-13* (Jan. 22, 2026), https://www.sec.gov/newsroom/press-releases/2026-13; *SEC-CFTC Joint Roundtable on Regulatory Harmonization Efforts* (Sept. 29, 2025), https://www.sec.gov/newsroom/meetings-events/sec-cftc-joint-roundtable-sept-29-2025.

[21] Michael S. Selig, Chairman, CFTC, *The Next Phase of Project Crypto: Unleashing Innovation for the New Frontier of Finance* (Jan. 29, 2026), https://www.cftc.gov/PressRoom/SpeechesTestimony/opaselig1.

[22] Paul S. Atkins, Chairman, SEC, & Caroline D. Pham, Acting Chairman, CFTC, *Joint Statement from the Chairman of the SEC and Acting Chairman of the CFTC* (Sept. 5, 2025), https://www.cftc.gov/PressRoom/SpeechesTestimony/phamatkinsstatement090525.

[23] Division of Corporation Finance, Division of Investment Management, & Division of Trading and Markets, SEC, *Statement on Tokenized Securities* (Jan. 28, 2026), https://www.sec.gov/newsroom/speeches-statements/corp-fin-statement-tokenized-securities-012826-statement-tokenized-securities.

[24] In the Matter of WisdomTree Digital Trust, et al., Investment Company Act Release No. 35968 (Feb. 23, 2026).

[25] Division of Trading and Markets, SEC, *Frequently Asked Questions Relating to Crypto Asset Activities and Distributed Ledger Technology* (Feb. 19, 2026), https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/frequently-asked-questions-relating-crypto-asset-activities-distributed-ledger-technology.

[26] MegPrime Holding LLC, SEC No-Action Letter (Jan. 15, 2026), https://www.sec.gov/rules-regulations/no-action-interpretive-exemptive-letters/division-corporation-finance-no-action/megprime-holding-llc-011526.

[27] BofA Securities, Inc., et al., SEC Interpretive Letter re Exchange Act § 13 "Group" Analysis (Jan. 23, 2026), https://www.sec.gov/files/corpfin/no-action/bankofamerica-01232026-13d.pdf.

[28] Division of Corporation Finance, *Securities Act Rules* (Mar. 6, 2026), https://www.sec.gov/rules-regulations/staff-guidance/compliance-disclosure-interpretations/securities-act-rules.

[29] Paul S. Atkins, Chairman, SEC, *Remarks at U.S. Chamber of Commerce Center for Capital Markets Competitiveness* (Feb. 23, 2026), https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-uscoc-invest-act-022326.

[30] Paul S. Atkins, Chairman, SEC, *Statement on Reforming Regulation S-K* (Jan. 13, 2026), https://www.sec.gov/newsroom/speeches-statements/atkins-statement-reforming-regulation-s-k-011326.

[31] FINRA Regulatory Notice 26-03.

[32] FINRA Regulatory Notice 26-04.

[33] FINRA Regulatory Notice 26-05.

[34] Notice of Filing of a Proposed Rule Change To Adopt FINRA Rule 3290 (Outside Activities Requirements), 91 Fed. Reg. 5003 (Feb. 3, 2026).

[35] Press Release, Municipal Securities Rulemaking Board ("MSRB"), *MSRB Seeks Comment on Draft Amendments to MSRB Rule G-27 on Dealer Supervision* (Jan. 14, 2026), https://www.msrb.org/Press-Releases/MSRB-Seeks-Comment-Draft-Amendments-MSRB-Rule-G-27-Dealer-Supervision.

[36] Press Release, MSRB, *MSRB Advances Rule Modernization and Market Transparency Initiatives and Discusses Strategic Plan at Quarterly Board Meeting* (Jan. 29, 2026), https://www.msrb.org/Press-Releases/MSRB-Advances-Rule-Modernization-and-Market-Transparency-Initiatives-and-Discusses.

[37] OCC Bulletin 2026-3, *GENIUS Act Regulations: Notice of Proposed Rulemaking* (Feb. 25, 2026), available at: https://www.occ.treas.gov/news-issuances/bulletins/2026/bulletin-2026-3.html

[38] *Id.*

[39] *Id.*

[40] Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency, 91 Fed. Reg. 10202, 10212 (Mar. 2, 2026).

[41] OCC Bulletin 2026-3, *supra* note 37.

[42] FDIC Press Release, *FDIC Approves the Deposit Insurance Applications for Ford Credit Bank, Salt Lake City, Utah, and GM Financial Bank, Salt Lake City, Utah* (Jan. 22, 2026), available at: https://www.fdic.gov/news/press-releases/2026/fdic-approves-deposit-insurance-applications-ford-credit-bank-salt-lake ("Ford & GM Approvals")

[43] *Id.*

[44] FDIC Press Release, *FDIC Approves the Deposit Insurance Application for Edward Jones Bank, Salt Lake City, Utah* (Feb. 27, 2026), available at: https://www.fdic.gov/news/press-releases/2026/fdic-approves-deposit-insurance-application-edward-jones-bank-salt-lake ("Edward Jones Approval").

[45] Ford & GM Approvals, *supra* note 42; *id.*

[46] *See* 12 U.S.C. § 1841(c)(2)(H).

[47] *See* Public Law 111-203, title VI, section 603(a), 124 Stat. 1597 (2010).

[48] Ford & GM Approvals, *supra* note 42.

[49] *Id.*

[50] Edward Jones Approval, *supra* note 44

[51] OCC News Release 2026-14, *Agencies Clarify the Capital Treatment of Tokenized Securities* (Mar. 5, 2026), available at: https://occ.gov/news-issuances/news-releases/2026/nr-ia-2026-14.html.

[52] *Id.*

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Legislative/Regulatory Actions

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[53] Fed, FDIC & OCC, *Capital Treatment of Tokenized Securities FAQs* at 1-2 (Mar. 5, 2026), available at: https://www.occ.gov/news-issuances/news-releases/2026/nr-ia-2026-14a.pdf

[54] *Id.* at 2.

[55] Fed Press Release, *Federal Reserve board finalizes hypothetical scenarios for its annual stress test and votes to maintain the current stress test-related capital requirements until public feedback can be considered* (Feb. 4, 2026), available at: https://www.federalreserve.gov/newsevents/pressreleases/bcreg20260204a.htm ("Fed Stress Tests"); OCC News Release 2026-6, *OCC Releases Dodd-Frank Act Stress Test Scenarios for 2026* (Feb. 12, 2026), available at: https://www.occ.treas.gov/news-issuances/news-releases/2026/nr-occ-2026-6.html; FDIC Press Release, *FDIC Releases Economic Scenarios for 2026 Stress Testing* (Feb. 12, 2026), available at: https://www.fdic.gov/news/press-releases/2026/fdic-releases-economic-scenarios-2026-stress-testing

[56] *Id.*

[57] Fed Stress Tests, *supra* note 55.

[58] *See* Fed, Request for Comment on Scenarios for the Board's 2026 Supervisory Stress Test [OP-1871], available at: https://www.federalreserve.gov/apps/proposals/FR-2025-0064-01/details.

[59] Lisa D. Cook, Governor, Fed, *Statement on Stress Test Capital Buffer Extension and Final 2026 Stress Test Scenarios* (Feb. 4, 2026), available at: https://www.federalreserve.gov/newsevents/pressreleases/cook-statement-20260204.htm.

[60] Michael S. Barr, Governor, Fed, *Statement on Stress Test Capital Buffer Extension and Final 2026 Stress Test Scenarios* (Feb. 4, 2026), available at: https://www.federalreserve.gov/newsevents/pressreleases/barr-statement-20260204.htm.

[61] Fed Press Release, *Following earlier actions to remove reputation risk from its supervision of banks, Federal Reserve Board requests comment on proposal to codify that removal* (Feb. 23, 2026), available at: https://www.federalreserve.gov/newsevents/pressreleases/bcreg20260223a.htm ("Fed Reputation Risk Press Release").

[62] Prohibition on Use of Reputation Risk or Other Supervisory Tools To Encourage or Compel Banking Organizations To Engage in Politicized or Unlawful Discrimination, 91 Fed. Reg. 9499, 9499 (Feb. 26, 2026) ("Fed Reputation Risk NPRM").

[63] Fed Reputation Risk Press Release, *supra* note 61.

[64] Fed Reputation Risk NPRM, *supra* note 62, at 9500.

[65] Fed Press Release, *Federal Reserve Board announces that reputational risk will no longer be a component of examination programs in its supervision of banks* (June 23, 2025), available at: https://www.federalreserve.gov/newsevents/pressreleases/bcreg20250623a.htm.

[66] Prohibition on Use of Reputation Risk by Regulators, 90 Fed. Reg. 48825 (Oct. 30, 2025).

[67] OCC Bulletin 2026-4, *National Bank Chartering: Final Rule* (Feb. 27, 2026), available at: https://www.occ.gov/news-issuances/bulletins/2026/bulletin-2026-4.html.

[68] *Id.*

[69] 12 C.F.R. § 5.20(e)(i) (2020)

[70] *See* OCC News Release 2025-125, *OCC Announces Conditional Approvals for Five National Trust Bank Charter Applications* (Dec. 12, 2025), available at: https://occ.gov/news-issuances/news-releases/2025/nr-occ-2025-125.html.

[71] Kansas City Fed News Release, Federal Reserve Bank of Kansas City Approves Limited Account (Mar. 4, 2026), https://www.kansascityfed.org/newsroom/2026-news-releases/federal-reserve-bank-of-kansas-city-approves-limited-account/.

[72] *Id.*

[73] Fed Press Release, *Federal Reserve Board requests public input on "payment account," which eligible financial institutions could use for the limited purpose of clearing and settling their payments* (Dec. 19, 2025), available at: https://www.federalreserve.gov/newsevents/pressreleases/bcreg20251219a.htm.

[74] 90 Fed. Reg. 60096, 60098 (Dec. 23, 2025).

[75] *Custodia Bank, Inc. v. Fed. Rsrv. Bd. of Governors*, 157 F.4th 1235, 1245 (10th Cir. 2025).

[76] *Banco San Juan Internacional, Inc. v. Fed. Rsrv. Bank of New York*, 762 F. Supp. 3d 247, 259 (S.D.N.Y. 2025); *Fourth Corner Credit Union v. Fed. Rsrv. Bank of Kansas City*, 861 F.3d 1052 (10th Cir. 2017); *PayServices Bank v. Fed. Rsrv. Bank of San Francisco*, No. 1:23-CV-00305-REP, 2024 WL 1347094, at *1 (D. Idaho Mar. 30, 2024).

[77] *See* FinCEN, FIN-2026-R001, *Exceptive Relief from Requirement to Identify and Verify Beneficial Owners at Each Account Opening* (Feb. 13, 2026), available at: https://www.fincen.gov/system/files/2026-02/FinCEN-Order-CCDExceptiveRelief.pdf.

[78] *Id.* at 1.

[79] *Id.* at 6.

[80] FinCEN Press Release, *FinCEN Issues Exceptive Relief to Streamline Customer Due Diligence Requirements* (Feb. 13, 2026), available at: https://www.fincen.gov/news/news-releases/fincen-issues-exceptive-relief-streamline-customer-due-diligence-requirements.

[81] *See* Government Accountability Office, *Consumer Financial Protection Bureau: Status of Reorganization Efforts* (Jan. 27, 2026), available at: https://www.gao.gov/assets/gao-26-108448.pdf.

[82] *Id.* at 1.

[83] *See id.*

[84] *See id.* at 17, 19.

[85] *Id.* at 28.

[86] *See id.* at 2.

[87] CFTC Press Release 9143-25, CFTC Staff Reissues Staff Letter 25-50 to Add Additional No-Action Position on CPO Delegation Arrangements (February 26, 2026).

[88] CFTC Press Release 9185-26, CFTC Enforcement Division Issues Prediction Markets Advisory (February 25, 2026).

[89] CFTC Press Release 9183-26, CFTC Reaffirms Exclusive Jurisdiction over Prediction Markets in U.S. Circuit Court Filing (February 17, 2026).

[90] Digital Commodity Intermediaries Act, S. 3755, 119th Cong. (2026).

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CFTC

CFTC Press Release 9194-26 (March 12, 2026) – The CFTC published an Advanced Notice of Proposed Rulemaking seeking public comment on the need to amend or issue new regulations concerning event contracts traded on prediction markets. The ANPRM asks questions concerning the application of statutory core principles and Commission regulations to prediction markets, the types of event contracts that may be prohibited as contrary to the public interest, cost-benefit considerations related to prediction markets, and other topics. Comments must be in writing and received within 45 days of the ANPRM's publication in the *Federal Register*.

CFTC Press Release 9193-26 (March 12, 2026) – The CFTC's Division of Market Oversight issued a prediction markets advisory regarding the listing for trading of event contracts. The advisory, among other things, underscores DCMs' regulatory obligations with respect to CEA section 5(d) and Part 38, DCM Core Principle 3 and the Appendix C guidance, and product submission requirements.

CFTC Press Release 9192-26 (March 11, 2026) – The CFTC and SEC announced that they have entered into a Memorandum of Understanding to guide coordination and collaboration between the two agencies to support lawful innovation, uphold market integrity, and ensure investor and customer protection. In conjunction with the MOU, the agencies created a Joint Harmonization Initiative to advance coordinated oversight and promote regulatory clarity in areas of common regulatory interest. The Initiative will support coordination across the policymaking, examination and enforcement functions of each agency, particularly for joint applications and shared policy efforts, including: Clarifying product definitions through joint interpretations and rulemakings; Modernizing clearing, margin, and collateral frameworks; Reducing frictions for dually registered exchanges, trading venues, and intermediaries; Providing a fit-for-purpose regulatory framework for crypto assets and other emerging technologies; Streamlining regulatory reporting for trade data, funds, and intermediaries; and Coordinating cross-market examinations, economic analyses, risk monitoring, surveillance, and enforcement. The Joint Harmonization Initiative will be co-led by Meghan Tente (CFTC) and Robert Teply (SEC). Public input is encouraged and may be submitted through the written input form or a meeting request.

FinCEN

FinCEN Press Release (February 13, 2026) – The U.S. Department of the Treasury's Financial Crimes Enforcement Network issued an order granting exceptive relief to covered financial institutions from certain requirements under FinCEN's Customer Due Diligence Requirements for Financial Institutions rule (the "2016 CDD Rule"). The order excepts covered financial institutions from the requirement to identify and verify the beneficial owners of a legal entity customer each time the customer opens a new account. Under the order, a covered financial institution is required to identify and verify the beneficial owners of a legal entity customer in only the following circumstances: when a legal entity customer first opens an account with the institution; when the institution has knowledge of facts that reasonably call into question the reliability of previously obtained beneficial ownership information; and as otherwise required based on the institution's risk-based procedures for ongoing customer due diligence. Notwithstanding this exceptive relief, covered financial institutions must comply with all other applicable anti-money laundering/countering the financing of terrorism requirements under the Bank Secrecy Act, including the obligation to conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

FinCEN Press Release (February 13, 2026) – The U.S. Department of the Treasury's Financial Crimes Enforcement Network launched a new dedicated webpage to confidentially accept whistleblower tips on fraud, money laundering, and sanctions violations. FinCEN's Office of the Whistleblower is accepting tips involving violations and conspiracies related to the Bank Secrecy Act, U.S. sanctions programs, and several other laws critical to safeguarding the U.S. financial system and national security. Individuals who provide information may be eligible for awards if their tip leads to a successful enforcement action. Whistleblowers are encouraged to submit information as soon as possible and to provide detailed, specific documentation to support their claims. Learn more information on FinCEN's whistleblower program and how to submit tips.

FINRA

FINRA Regulatory Notice 26-04 (February 23, 2026) – FINRA has adopted amendments to the Capital Acquisition Broker (CAB) rules that are designed to reduce the regulatory burden on CABs while maintaining CABs' limited institutional business model and important investor protections. The amendments will be effective on March 25, 2026.

Joint Press Release

OCC News Release 2026-14 (March 5, 2026) – The federal bank regulatory agencies jointly issued answers to frequently asked questions to clarify the capital treatment of tokenized securities. A security is often referred to as "tokenized" when ownership rights in the security are represented using

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distributed ledger technology. The answers to the frequently asked questions clarify that an eligible tokenized security should generally receive the same capital treatment as the non-tokenized form of the security under the capital rule. The agencies also clarified that the capital rule is technology neutral, and the technologies used to issue and transact in a security do not generally impact its capital treatment.

MSRB

MSRB Press Release (January 14, 2026) – The MSRB published a request for comment (RFC) on draft amendments to MSRB Rule G-27 as part of its ongoing retrospective rule review of the supervisory obligations of dealers in the municipal securities market. The RFC is the first step in MSRB's review of supervisory obligations in response to the evolution of business practices since the rule was last substantially reviewed and revised. MSRB also plans to engage in a series of industry outreach initiatives this year to address dealer requests for greater flexibility and modernization of the supervisory framework. The draft amendments to Rule G-27 seek to add clarity to the term "structuring of public offerings or private placements" within the definition of "office of municipal supervisory jurisdiction," and to increase the 30-business day per year exclusion from the municipal branch office registration for locations other than a primary residence. In addition to the proposed amendments, MSRB's RFC seeks comments more broadly on additional areas of Rule G-27 that should be included in MSRB's retrospective rule review, including what aspects of the rule MSRB should focus on that would be most relevant to how dealers engage in business today and into the future. The proposed amendments would not alter dealers' existing regulatory obligations to establish and maintain reasonably designed supervisory systems, as well as compliance policies and procedures that are effectively implemented, updated, and enforced. Responses to this RFC are due March 16.

MSRB Notice 2026-02 (January 16, 2026) – Annually, the MSRB publishes a notice establishing the criteria for designating participants for its mandatory business continuity and disaster recovery testing. The SEC requires the MSRB to, among other things, require certain brokers, dealers, municipal securities dealers and municipal advisors registered with the MSRB to participate in the testing of the operation of the MSRB's business continuity and disaster recovery plans in the manner and frequency specified by the MSRB, provided that such frequency shall not be less than once every 12 months. The MSRB has established the following criteria, which reflects the different types or levels of activity generally found on each of the below systems as follows: For the Real-Time Transaction Reporting System, the MSRB will designate the top five MSRB Registrants in terms of number of municipal security trades as reported to RTRS during a calendar month prior to the testing, provided that such MSRB Registrants' cumulative activity accounts for at least 30% of the number of municipal security trades reported to RTRS during that month; For the Short-term Obligation Rate Transparency system, the MSRB will designate the top five MSRB Registrants acting as program dealers for auction rate securities or marketing agents for variable rate demand obligations (or providing services on behalf of such dealers) that participated in interest rate resets as reported to SHORT during a calendar month prior to the testing, provided that such MSRB Registrants' cumulative activity accounts for at least 30% of the interest rate resets reported to SHORT during that month; and For primary market data and document submissions to the MSRB's Electronic Municipal Market Access system, the MSRB will designate the top five MSRB Registrants that engaged in underwriting activity in terms of par amount underwritten as reported on Forms G-32 during a calendar month prior to the testing, provided that such MSRB Registrants' cumulative activity accounts for at least 30% of the par amount underwritten during that month. Should the "top five" criteria described above not result in representation of at least 30% of the relevant activity on the applicable MSRB system, then the top MSRB Registrants that together represent at least 30% of such activity on the applicable system during the Measurement Period will be designated as Participants. The MSRB will, at least 45 calendar days prior to a functional and performance test of an operation of the MSRB's BC/DR Plans, individually notify all Participants that are required to participate in such testing. The MSRB will also provide to Participants information regarding the manner of the testing and instructions for participation.

OCC

OCC News Release 2026-9 (February 25, 2026) – The OCC issued a proposed rulemaking to implement the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act. The notice of proposed rulemaking generally sets forth, and seeks comment on, the regulations that would apply to permitted payment stablecoin issuers and foreign payment stablecoin issuers under the OCC's jurisdiction as well as certain custody activities conducted by OCC-supervised entities. The proposed rule addresses all of the regulations the OCC is required to promulgate under the GENIUS Act other than those related to the Bank Secrecy Act, Anti-Money Laundering, and Office of Foreign Asset Control sanctions, which will be addressed in a separate rulemaking in coordination with the Department of Treasury. Comments from the public are due 60 days from the date of publication in the *Federal Register*.

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OCC News Release 2026-6 (February 12, 2026) – The OCC released economic and financial market scenarios for use in the upcoming stress tests for covered institutions. The 2026 scenario and background information can be found on the OCC's Dodd-Frank Act Stress Test (Company Run) page. The final policy statement on the development and distribution of the scenarios was issued on October 28, 2013, in the *Federal Register*.

SEC

SEC Press Release 2026-19 (February 18, 2026) – The SEC proposed amendments to the form used by most registered investment companies to report portfolio-related information. The changes are designed to reduce reporting burdens without significantly affecting the SEC's use of the data or the public's ability to assess relevant information about a fund. The proposed amendments to Form N-PORT follow a review (in accordance with a Presidential Memorandum) of the amendments the Commission made to the form in 2024. The proposal considers developments that have occurred after the Commission's adoption of those amendments. The Commission also extended compliance dates for Names Rule reporting. This extension will provide additional time for funds and the Commission to consider the proposed amendments to Form N-PORT and avoid certain costs associated with regulatory requirements that the Commission is proposing to eliminate. The new compliance dates are Nov. 17, 2027, for fund groups with net assets of $10 billion or more and May 18, 2028, for fund groups with less than $10 billion in net assets as of the end of their most recent fiscal year. The proposing release for Form N-PORT amendments will be published in the *Federal Register*, and the public comment period will remain open until 60 days after the *Federal Register* publication date.

TREASURY

Treasury Press Release (February 19, 2026) – The U.S. Department of the Treasury released two new resources to guide AI use in the financial sector, a shared Artificial Intelligence Lexicon and the Financial Services AI Risk Management Framework (FS AI RMF). By strengthening common terminology and risk management practices for AI, these resources support quicker and more widespread adoption of AI in the financial sector, via more robust AI cybersecurity and improved operational resilience. Developed through the Financial and Banking Information Infrastructure Committee and the Financial Services Sector Coordinating Council's Artificial Intelligence Executive Oversight Group (AIEOG), the publications advance implementation of the Action Plan by translating national AI priorities into practical tools for financial institutions, regulators, and technology providers. Building on this shared foundation, the Financial Services AI Risk Management Framework adapts the NIST AI Risk Management Framework to the specific operational, regulatory, and consumer protection considerations of financial services. The FS AI RMF provides practical tools and reference materials to help institutions evaluate AI use cases, manage risks across the AI lifecycle, and embed accountability, transparency, and resilience into AI deployment decisions. The framework is designed to be scalable and flexible, supporting adoption by institutions of varying size and complexity.

Treasury Press Release (February 18, 2026) – The U.S. Department of the Treasury announced the conclusion of a major public-private initiative to strengthen cybersecurity and risk management for artificial intelligence (AI) in the financial services sector. Over the course of February, Treasury will release a series of six resources developed in partnership with industry and federal and state regulatory partners to enable secure and resilient AI across the U.S. financial system. The Artificial Intelligence Executive Oversight Group, a partnership between the Financial and Banking Information Infrastructure Committee and the Financial Services Sector Coordinating Council, brought together senior executives from financial institutions, federal and state financial regulators, and other key stakeholders to focus on addressing identified gaps in the financial sector's use of AI, developing practical tools that financial institutions can use to manage AI-specific cyber-security risks while unleashing innovation.

Treasury Press Release (February 6, 2026) – The U.S. Department of the Treasury, as chair of the Committee on Foreign Investment in the United States, issued a Request for Information seeking public input on the Known Investor Program and how CFIUS may streamline aspects of its foreign investment review process, while maintaining its rigorous analysis that identifies and addresses national security risk that can accompany foreign investment. Enhancements to the CFIUS process are aimed at facilitating greater investment into the United States from allies and partners. The CFIUS Known Investor Program was announced in May 2025 and is under development. It would entail CFIUS collecting information from foreign investors who choose to participate in advance of receiving a formal filing with the aim of increasing efficiencies in the national security-related due diligence process. Through this RFI, stakeholders will have the opportunity to provide input into the development of the Known Investor Program as well as share feedback on additional areas where CFIUS may increase efficiencies and enhance its processes related to case reviews, non-notified transactions, mitigation, and monitoring and enforcement. The comment period is open for any stakeholder with an interest in CFIUS and will close on March 18, 2026. For more information, visit https://www.cfius.gov/.

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Available Publications

SEC Press Release 2026-20 (February 24, 2026) – The SEC 's Division of Enforcement announced significant updates to its Enforcement Manual. These updates include changes to investigative procedures that are intended to enhance consistency and uniformity in the Division's practices and to create greater efficiencies. The Enforcement Manual, which was last revised in 2017, will undergo yearly reviews going forward. Updates to the Enforcement Manual include changes in the following areas: 1) Ensuring a uniform Wells process; 2) Facilitating simultaneous consideration of settlement recommendations and waiver requests; and 3) Additional Updates to the Enforcement Manuals.

February 23, 2026 – The MSRB published a new research report that analyzes trends in municipal securities dealer participation and concentration in the municipal market from 2016 through 2025.

February 19, 2026 – The MSRB published the 18th edition of its annual Fact Book, a compilation of the past five years of statistics on municipal securities market trading, interest-rate resets and disclosures. The 2025 Fact Book includes monthly, quarterly and annual aggregate market information from 2021 to 2025, which can be analyzed to identify market trends.

SEC Press Release 2026-17 (February 5, 2026) – The SEC's Division of Economic and Risk Analysis has published two new reports on exchange traded funds and fund mergers, and updated statistics and data visualizations on municipal advisors, transfer agents, and security-based swap dealers. The reports provide the public with information about the growth in active ETFs and the changes in fees paid by investors when mutual funds and ETFs acquire other funds. The two reports are: Fast-Growing Market of Active ETFs and When Funds Merge: What Happens to Fees? Evidence from Acquiring Mutual Funds and ETFs. SEC staff also updated the SEC's public statistics and data visualizations webpage to include updated statistics and visualizations on municipal advisors, transfer agents, and security-based swap dealers. The webpage provides statistics presented in time series charts to show market trends, pie charts to show distribution across different categories, as well as heat maps to show geographic distributions.

MSRB Press Release (January 22, 2026) – The MSRB published its annual report for 2025. The report highlighted several key initiatives in the areas of Market Regulation, Market Transparency, and Public Trust and also included audited annual financial statements for the fiscal year that ended September 30, 2025. For a detailed look at the financials and insights into how the MSRB advances its mission, read the report. ■

Who's News

Christine (Chris) Allen, Senior Sales Executive and Renewal Manager at SunGard/FIS, has retired after 34 years in the financial services industry. Congratulations and best of luck, Chris!

Dennis Azary has joined Ballast Rock Capital as Co-Chief Compliance Officer and FinOp. Previously, Dennis was Deputy CCO at Finalis Securities.

Tyler S. Badgley has been named General Counsel at the CFTC.

Thoreau Bartmann has joined K&L Gates as a Partner in the Investment Funds practice of their DC office. Previously, Thoreau was Senior Special Adviser to the Chief of the Asset Management Unit, Division of Enforcement at the SEC and also Co-Chief Counsel of the SEC's Division of Investment Management.

Hector Beason has been promoted to Senior Legal Counsel, VP at Santander Private Banking International.

Seth Bender has joined Bullish as Deputy General Counsel, head of U.S. Legal. Previously, Seth was General Counsel at HSBC Securities (USA).

Luna Bloom has been named Associate Director (Legal and Regulatory Policy) at the SEC. Previously, Luna was the Acting Associate Director.

Svetlana Evgenevna Braunscheidel, JD, LLM, has been named General Counsel at ProNet Group, Inc. This is in addition to her role as Senior Vice President – Governance at PNG Cyber, LLC.

Alan Brubaker has been named Director of the Office of Legislative and Intergovernmental Affairs at the CFTC. He joins the CFTC after serving as a senior advisor to the House Committee on Oversight and Government Reform under Kentucky Congressman James Comer, who serves as chairman.

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Who's News

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Kevin Cantrell, formerly Vice President/Internal Audit at Plains All American Pipeline (as well as audit and compliance positions at Protiviti and JPMorgan Chase) has retired. Congratulations and best wishes, Kevin!

Keith Cassidy has been named Director of the Division of Examinations at the SEC. He had served as Acting Director since May 2024 and previously was the division's Deputy Director, Acting Co-Director, and National Associate Director of the Technology Controls Program.

Ann Duggan has joined Ameriprise Financial Services, LLC as Vice President – Clearing & Service Risk Management. Previously, Ann was VP, Control Management Officer at Wells Fargo.

Zachary Goldman has rejoined Sullivan & Cromwell LLP as a Partner in Financial Services and National Security Practices. Previously, Zach was Partner and Co-Chair, Blockchain and Cryptocurrency Working Group at WilmerHale.

Natasha Vij Greiner has joined WilmerHale as Partner and Chair of the Investment Management practice. Previously, Natasha was the Director of Investment Management at the SEC.

Mel Gunewardena has been named Director of the Office of International Affairs and Senior Markets Advisor to the Chairman at the CFTC.

Michael Kadish is now 'on his own' supporting financial institutions and organizations. Previously, Mike was Of Counsel at Joseph, Cohen & Del Vecchio, PC.

In addition to his role as Compliance Director at 3iCO, **Thomas Kennedy** has been named Counsel at Royer Cooper Cohen Braunfeld LLC.

J. Russell McGranahan has been named General Counsel at the SEC. In that role, he will oversee the provision of legal expertise and advice to the Office of the Chairman, Commissioners, and agency staff. **Jeffrey Finnell**, who had served as Acting General Counsel, remains at the Commission as Deputy General Counsel.

Anne McKinley has been named Acting Associate Regional Director at the SEC.

Caitlin Mandel has joined Ally as Associate General Counsel – Consumer Banking. Previously, Caitlin was a Partner at Winston & Strawn LLP.

David I. Miller has been named Director of Enforcement at the CFTC. Miller joins the CFTC from private practice, having served as a litigation partner at two global law firms, Greenberg Traurig and Morgan Lewis.

Simona Mola has joined NERA as a Director. Previously, Simona was a Principal at Cornerstone Research.

Paul Patton has been promoted to Managing Director & Head of U.S. Prudential Bank Regulatory Group, Citi Legal at Citi.

Mark Pocress has been promoted to AVP, Financial Crimes Compliance at Flagstar Bank.

Catalina Rivera has joined SHOOK Research as Associate VP, Events. Previously, Catalina was an Events Specialist at Shopmonkey and Marketing Manager at Renaissance Regulatory Services.

Tommy Watkins has joined Fannie Mae as Head of Operational Risk for Treasury & Capital Markets. Previously, Tommy was Managing Director, Operational Risk Business Oversight Leader, Global Commercial and Corporate & Investment Banking Operations at Wells Fargo.

Kristina Wyatt has joined The Conservation Fund as EVP and General Counsel. Previously, Kristina was General Counsel, Chief Sustainability Officer at Persefoni.

So Long, Farewell and THANK YOU

Financial Markets Association (Founded 1991)

Dear Friends and Colleagues,

In 1991, the Financial Markets Association (FMA) was founded by Malcolm Northam and Dorcas Pearce with a clear and focused mission: to provide education, support, and a professional forum for bank-affiliated securities dealers.

At a time when the regulatory and compliance environment was rapidly evolving, FMA stepped forward to serve professionals who needed specialized knowledge, practical guidance, and a trusted network of peers. What began as a vision became a vibrant and respected organization dedicated to advancing excellence in our industry.

Over the years, FMA developed and delivered a wide range of educational seminars tailored to attorneys, compliance professionals, risk managers, operations personnel, and senior leadership. Our programs included:

- → **Securities Compliance Seminar**
- → **Operations Conference**
- → **Legal and Legislative Issues Conference**
- → **Capital Markets 'Supercourse'**

Through these programs, thousands of participants gathered to learn from regulators, attorneys, consultants, industry leaders, and—just as importantly—from one another. Our peer-to-peer workshops fostered candid discussion, practical problem solving, and enduring professional relationships.

FMA events were held in cities across the country, including Chicago, San Antonio, Washington (DC), Fort Lauderdale, Miami, Dallas, Nashville, Phoenix, and Charlotte—each location contributing to the strong sense of community and shared purpose that defined our organization.

Beyond the formal sessions, it was the spirit of collaboration, integrity, and mutual support that truly distinguished FMA. The conversations in conference rooms, the insights exchanged over meals, and the professional friendships formed along the way became lasting hallmarks of our work together.

After many meaningful and productive years, we now bring the chapter of the Financial Markets Association to a close. While the organization concludes its formal activities, its legacy lives on in the knowledge shared, the careers strengthened, and the professional standards elevated.

We extend our deepest gratitude to our key supporters, speakers, sponsors, volunteers, and loyal attendees. Your commitment, expertise, and participation made FMA not just an association, but a community.

Thank you for your trust, your engagement, and your dedication to excellence in the financial markets.

With appreciation and respect,

Dorcas Pearce
Co-Founder
Financial Markets Association

Malcolm Northam
Co-Founder