

**Issue Editor:**

Charles J. Morton, Jr.
 cjmorton@Venable.com
 410.244.7716

Venable attorneys produce periodic alerts and newsletters covering a variety of topics and practice areas. For your convenience, we have assembled below a collection of the latest alerts and newsletters from December 2013. To view the full text of an article, please click on the title of the piece.

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Advertising Law News & Analysis

December 6, 2013 Edition

Featuring articles on quality "sale" disclaimers; the Children's Advertising Review Unit's issue with a Boy Scouts sweepstakes disclosure; and what happens when marketers ignore National Advertising Division recommendations.

December 12, 2013 Edition

Featuring articles on the rules for online disclosures; possible future guidance from the FTC on native advertising; a California court's decision to deny class certification in a false advertising action against Chipotle; and asking the right questions when substantiating advertising claims.

Class Action Defense

California Court Continues Ascertainability Trend, Denies Class Certification in Chipotle "Naturally Raised" Litigation

Purveyors of mass-retail food products may have a new reason to rejoice this holiday season. On December 2, the U.S. District Court for the Central District of California quietly issued a three-page In Chambers Order denying class certification in a false advertising action challenging Chipotle's claim that its products contain "Naturally Raised" meat.

Authors: [David D. Conway](#) and [Edward P. Boyle](#)

Second Circuit Answers Call from TCPA Plaintiff

After two failed calls in the Eastern District of New York, the Second Circuit last week opened the line for one Telephone Consumer Protection Act plaintiff to plead his case.

Authors: [Edward P. Boyle](#) and [Michael C. Hartmere](#)

Consumer Finance

The CFPB's Supervisory and Enforcement Functions and How They Work Together

In an October 9 speech to the FDIC's Advisory Committee on Economic Inclusion, Steve Antonakes, the Deputy Director of the CFPB and also the Associate Director of the CFPB's Supervision, Enforcement and Fair Lending (SEFL) Unit, discussed the CFPB's supervisory and enforcement tools.

Author: [Allyson B. Baker](#)

Employee Benefits



IRS Issues Additional Guidance on the Application of Windsor to Cafeteria Plans, FSAs, and HSAs

The IRS recently issued Notice 2014-1, providing additional guidance on the effects of the Supreme Court's Windsor decision on (1) cafeteria plans; (2) medical flexible spending accounts (Medical FSAs); (3) health savings accounts (HSAs); and (4) dependent care flexible spending accounts (Dependent Care FSAs).

Authors: [Thora A. Johnson](#), [Jean Y. Yu](#), and [Chana E. Ickowitz](#)

Healthcare

Health Insurance Exchanges: Litigation to Follow and How to Avoid It Next Time

First you have the problem and then you have the litigation. This more-or-less iron rule of American life will be honored once again in the aftermath of the "roll out" of Obamacare.

Author: [Ralph S. Tyler](#)

Intellectual Property

IP Buzz - December 2013

The December issue of *IP Buzz* features articles on patent troll reform bills moving through Congress and the denial of class certification in the Chipotle "naturally raised" claim litigation.

Issue Editors: [Martin L. Saad](#), [Meaghan Hemmings Kent](#), and [Elissa Brockbank Reese](#)

International Trade

Enforcing the New Export Control Regime

The first of the President's Export Control Reform initiatives took effect October 15, 2013. The Government has also begun monitoring and enforcing the new rules more strictly; accordingly, exporters and reexporters must understand that they may be held in violation of these changed regulations and subject to penalties. As such, it is important that companies fully understand, implement, and create internal awareness of the new rules.

Authors: [Lindsay B. Meyer](#), [Ashley W. Craig](#), [Carrie A. Kroll](#), [Rachel Miras Fiorill](#), and [Amanda C. Blunt](#)

Nonprofit

New York Nonprofit Revitalization Act Signed into Law

The Nonprofit Revitalization Act, unanimously passed by New York's legislature last June, was signed into law by Governor Andrew M. Cuomo on December 18, 2013. The Act is the first major revision to New York's nonprofit laws in over 40 years. Its provisions apply to nonprofits that are incorporated in New York, but one significant section – related to financial audits and financial reporting to the state – applies to all nonprofits that are registered in New York for charitable solicitation purposes.

Authors: [Susan E. Golden](#), [Lisa M. Hix](#), [Kristalyn J. Loson](#), and [Jeffrey S. Tenenbaum](#)

A Collection of Venable's Nonprofit Legal Articles, Presentations, and Recordings from the Fourth Quarter of 2013

Venable's [Nonprofit Organizations Practice Group](#) is pleased to share the best articles, presentations, and recordings of our monthly in-house nonprofit luncheon programs/webinars by our [attorneys](#). These quarterly digests are a collection of our most interesting and useful materials to help your organization as you tackle the always-challenging array of legal issues facing nonprofits.

Author: [Jeffrey S. Tenenbaum](#)

Private Fund Update

December 2, 2013 Edition

This update contains a preview of the upcoming floor vote on H.R. 1105; the panelists and agenda for the December 5th SEC Roundtable on proxy advisory services; the Federal Reserve NY report showing how asset prices are influenced by comments made by the Federal Reserve Chairman; the CFTC No Action Letter giving non-U.S. swap dealers who use U.S.-based personnel until January 14 to comply with certain Dodd-Frank requirements; the recent decision by the SEC's Dodd-Frank Investment Advisory Committee to recommend imposing user fees on registered investment advisors in order to fund additional SEC examinations; and Riverside Company COO Pam Hendrickson's op-ed in *Forbes* defending Timothy Geithner's move to a private equity fund.

December 9, 2013 Edition

This update contains guidance recently issued by the SEC on the registration exemption for advisers to venture capital funds; a recap of last month's House vote on H.R. 1105; a preview of the Volcker Rule vote; the Chamber of Commerce's report to reform FSOC; and the lawsuit filed against the CFTC's cross-border rule by three financial services organizations.

December 16, 2013 Edition

This update reviews recent SEC guidance on the "bad actors" rule which makes clear that portfolio companies are not considered "affiliated issuers" in Rule 506 offerings; approval of the Volcker Rule by five federal agencies; the Association for Corporate Growth's 2014 Policy Summit, taking place on February 5, 2014; and the SEC's 2014 Compliance Outreach seminar, taking place on January 30, 2014.

Upcoming Events

CFPB 2014 Regulatory Outlook: Nonbanks

Wednesday, January 8, 2014

2:00 - 3:30 p.m. ET

Please join Venable LLP for a complimentary webinar on the CFPB 2014 Regulatory Outlook: Nonbanks on Wednesday, January 8, 2014. Members of Venable's **CFPB Task Force** will review the current state of federal consumer financial protection law and policy and outline what you and your company or organization need to know about what's ahead. During the webinar, the speakers will share their experiences from the front lines and offer strategies to help you navigate the evolving legal landscape.

[Click here to register.](#)

How to Safeguard Your Nonprofit against Fraud and Embezzlement: Best Practices, Common Pitfalls, and Practical Strategies

Wednesday, January 15, 2014

12:00 - 2:00 p.m. ET

As recent press reports have highlighted, nonprofits are not immune from employee fraud and embezzlement. In fact, they may be more susceptible than their for-profit counterparts. Using recent, actual incidents as case studies, this program will explore why nonprofits so often fall victim to employee fraud and embezzlement, along with simple steps that every nonprofit can take to protect itself. Joining the seasoned fraud professionals from Venable and BDO will be the lead investigator and author of the recent *Washington Post* articles that have shaken the nonprofit community.

[Click here to register.](#)

Government Affairs Compliance Tune-Up

Thursday, January 16, 2014

1:00 - 2:00 p.m. ET

The laws regulating politics and lobbying have changed dramatically in recent years. The Supreme Court in *Citizens United* vastly altered the rules for political fundraising and spending, and gave rise to a new type of organization known as a Super PAC. Government contractors face a growing and complex array of pay-to-play laws that restrict political contributions by their officers and other principals, and treat sales activity as lobbying. Restrictions on gifts to public officials and employees are ever-changing, affecting many such traditional activities as site visits and invitations to government officials to attend conferences and charitable events. This webinar will provide an overview of this changing landscape, helping you take

stock of your government relations efforts and systems for compliance.

[Click here to register.](#)

Opus Connect's New York Chapter January Event: Maximizing Shareholder Value in Good Times and Bad

Thursday, January 23, 2014

12:00 - 2:00 p.m. ET

Dealmakers and executives need a complete tool kit that includes strategies for a variety of market conditions. This panel will discuss the variety of factors that cause corporate initiatives and strategies to create value. The panel includes several perspectives including: corporate management, Board of Directors, financial and operational advisors, and private equity. Discussion points will cover operational and financial factors driving change, corporate decision making, governance and shareholder activism, and divestitures. The panel will wrap up with exploring the perspectives, objectives and strategies of the participants.

[Click here to register.](#)

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