
CFTC Year in Review: 23 Takeaways From 2023 and Predictions for 2024¹

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At an industry event in early 2023, Commodity Futures Trading Commission (CFTC or the Commission) Chairman Rostin Behnam set out a comprehensive agenda to include nearly three dozen rulemaking proposals as well as “business as usual requests” such as the issuance of orders, exemptive relief or interpretive relief.²

When Chairman Behnam detailed the CFTC’s 2023 work plan, the CFTC was building on its first year with a full slate of Commissioners, new Division Directors and senior leadership. The CFTC’s advisory committees were sponsored by the new Commissioners, many with new advisory committee members and renewed agendas. The CFTC was also deeply involved in high-profile developments in both the traditional and digital asset marketplaces.

Looking back, as the Chairman recently noted, the CFTC “largely stayed on course.”³ As we look back on the recently completed calendar year and turn our attention to the rapidly approaching 2024 presidential and congressional elections, the CFTC seems poised for another year packed with a flurry of regulatory, policy and enforcement activity.

This alert lays out 23 of our key takeaways from the past year and offers insights on what might take place in the coming months.

¹ This alert is written in memory of Mike Gill, who passed away in February 2024. Mike previously served as Chief Operating Officer and Chief of Staff at the CFTC. His professional and personal contributions to our industry will be missed. May his memory be a blessing.

² Rostin Behnam, Keynote Address of Chairman Rostin Behnam at the ABA Business Law Section Derivatives & Futures Law Committee Winter Meeting (Feb. 3, 2023), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehtnam31>.

³ Rostin Behnam, Keynote Address of Chairman Rostin Behnam at the ABA Business Law Section Derivatives & Futures Law Committee Winter Meeting (Jan. 26, 2024), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehtnam41>.

Rulemaking Agenda

- 1. The CFTC continues to proceed with an aggressive rulemaking policy agenda guided by its mission to “promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation.”⁴**

Based on the CFTC’s rulemaking agenda⁵ as well as a review of regulations and amendments proposed in 2023, the CFTC appears to be focused on advancing policies closely aligned with its mission.

Last year, Chairman Behnam observed that the rulemaking agenda would cover five areas: “(1) enhancing risk management and resilience across intermediaries, exchanges, and derivatives clearing organizations (‘DCOs’); (2) enhancing customer protections; (3) promoting efficiency and innovation; (4) improving reporting and data policy; and (5) addressing duplicative regulatory requirements, and amplifying international comity.”⁶

In the past year, we saw the CFTC take steps in furtherance of each of these items. The CFTC has reviewed risk management programs, resilience regimes, derivatives clearing organization operations, swap data reporting, and commodity pool operator and commodity trading advisor disclosure regimes. This work is, of course, on top of the approval of new designated contract markets (DCMs), amendments to permit intermediated trading at existing exchanges, and substituted compliance determinations with foreign jurisdictions.

- 2. The CFTC remains willing to revisit Dodd-Frank Act era rules and make tailored amendments, where appropriate.**

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was adopted in 2010. In the subsequent years, the CFTC implemented a wide array of new regulations to govern the over-the-counter swaps market, including the trading, clearing and reporting of swaps. Chairman Behnam has noted his willingness to “fine-tune” rules adopted in the past decade with the “real-time market experience” that has given the CFTC the “perspective” to ensure that the rules “remain fit for purpose.”⁷

⁴ See CFTC Mission Statement, <https://www.cftc.gov/About/AboutTheCommission>.

⁵ CFTC Agency Rule List (Fall 2023), https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCode=&showStage=active&agencyCd=3038&csrf_token=EAB9EF7E5B174902D056470B5A95CE732250303E55EC3A573B194660385BCB2EF899200DBB7EC52E068E6201B803201B76DB.

⁶ Chairman Rostin Behnam Keynote, *supra* note 2.

⁷ Keynote of Chairman Rostin Behnam at the FIA Boca 2022 International Futures Industry Conference (Mar. 16, 2022), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opabeenam21>.

In recent months, we have seen the CFTC take steps to “fine-tune” certain rules, including further amendments to swap data reporting fields,⁸ the issuance of confirmations by swap execution facilities (SEFs),⁹ and certain obligations imposed on swap dealers¹⁰ and other intermediaries.¹¹

Looking forward, we expect this trend to continue. As discussed in more detail below, the CFTC currently has proposed more than 10 rule changes that, if adopted, would amend certain Dodd-Frank Act rulemakings. Based on the comments received, these proposals have general support from market participants, with some of the items having received constructive feedback from commenters. We expect that many of these proposals should be approved by the CFTC in the coming months—in advance of the election and the potential reach of the Congressional Review Act (discussed below).

Several of the proposed amendments are highlighted below.

3. Swap data reporting rules remain a work in progress.

On December 15, 2023, the CFTC issued a notice of proposed rulemaking to amend its swap reporting and recordkeeping regulations.¹² The proposed changes include the designation of a unique product identifier and product classification system (UPI) for swaps in the “Other Commodity”¹³ asset class. However, the CFTC plans to mask the UPIs, concealing specific geographic details within them.¹⁴ This approach allows for the collection of location data without compromising counterparty anonymity. Additionally, the CFTC proposed (i) an amendment to permit conditional designation of UPIs by the CFTC and (ii) 30 new data elements across various

⁸ Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements, 88 Fed. Reg. 90046 (Dec. 28, 2023), <https://www.cftc.gov/sites/default/files/2023/12/2023-28350a.pdf>.

⁹ Swap Confirmation Requirements for Swap Execution Facilities, 88 Fed. Reg. 58145 (Aug. 25, 2023), <https://www.cftc.gov/sites/default/files/2023/08/2023-17747a.pdf>.

¹⁰ Capital and Financial Reporting Requirements for Swap Dealers and Major Swap Participants, 89 Fed. Reg. 2554 (Jan. 16, 2024), <https://www.cftc.gov/sites/default/files/2024/01/2023-28649a.pdf>.

¹¹ Operational Resilience Framework for Futures Commission Merchants, Swap Dealers, and Major Swap Participants, 89 Fed. Reg. 4706 (Jan. 24, 2024), <https://www.cftc.gov/sites/default/files/2024/01/2023-28745a.pdf>.

¹² *CFTC Approves Proposed Amendments to Regulations Regarding Real-Time Public Reporting and Swap Data Recordkeeping and Reporting Requirements*, CFTC Press Release No. 8835-23 (Dec. 15, 2023); See *Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements*, 88 FR 90046 (Dec. 28, 2023), <https://www.federalregister.gov/documents/2023/12/28/2023-28350/real-time-public-reporting-requirements-and-swap-data-recordkeeping-and-reporting-requirements>.

¹³ Any commodity that is not categorized in the interest rate, credit, foreign exchange or other asset classes as may be determined by the Commission is an “Other Commodity.” 17 C.F.R. § 43.2.

¹⁴ *Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements*, 88 FR 90046 (Dec. 28, 2023), <https://www.federalregister.gov/documents/2023/12/28/2023-28350/real-time-public-reporting-requirements-and-swap-data-recordkeeping-and-reporting-requirements>.

categories to enhance standardization, address data quality concerns and improve enforcement functions, including surveillance of benchmark manipulation and insider trading investigations.¹⁵

We expect that these efforts will continue, both at the CFTC and globally. Consultation with other jurisdictions remains important as market participants, repositories and regulators work to harmonize swap data reporting schemes across borders.

4. The CFTC continues to work collaboratively with global counterparts.

In 2023, the CFTC also took steps to support financial market participants' activities and provide additional flexibility for their operations around the world. This included, for example, a proposed comparability determination for nonbank swap dealers in the UK, which would permit certain UK-regulated swap dealers to comply with the CFTC's capital rules and financial reporting rules by complying with applicable UK requirements,¹⁶ and a proposed comparability determination for swap dealers organized and domiciled in the French Republic and Federal Republic of Germany.¹⁷

5. The CFTC continues to focus on important FCM and DCO risk management issues.

The CFTC continues to explore rules related to intermediation and clearing of derivatives. For example, the Commission proposed regulations to ensure clearing member funds and assets receive the proper treatment in the event that a DCO enters bankruptcy.¹⁸ In the same rulemaking, the Commission proposed to permit DCOs to hold customer and clearing member funds at foreign central banks subject to certain requirements, and also proposed to require DCOs to conduct a daily calculation and reconciliation of the amount of funds owed to customers and clearing members and the amount actually held for customers and clearing members.

The CFTC also took steps to address the issue of "separately margined accounts" at futures commission merchants, an issue that has been actively debated for nearly a decade.¹⁹ On April 14, 2023, the Commission proposed to amend Part 39, which governs DCOs, to codify the no-action

¹⁵ *Id.*

¹⁶ Notice of Proposed Order and Request for Comment on an Application for a Capital Comparability Determination Submitted on Behalf of Nonbank Swap Dealers Subject to Capital and Financial Reporting Requirements of the United Kingdom and Regulated by the United Kingdom Prudential Regulation Authority, 89 Fed. Reg. 8026 (Feb. 5, 2024), <https://www.cftc.gov/sites/default/files/2024/02/2024-02070a.pdf>.

¹⁷ Notice of Proposed Order and Request for Comment on an Application for a Capital Comparability Determination Submitted on Behalf of Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Capital and Financial Reporting Requirements of the European Union, 88 Fed. Reg. 41774 (June 27, 2023), <https://www.cftc.gov/sites/default/files/2023/06/2023-13446a.pdf>.

¹⁸ Protection of Clearing Member Funds Held by Derivatives Clearing Organizations, 89 Fed. Reg. 286 (Jan. 3, 2024), <https://www.cftc.gov/sites/default/files/2024/01/2023-28767a.pdf>.

¹⁹ Joint Audit Committee 14-03.

position regarding separately margined accounts in CFTC Staff Letter No. 19-17.²⁰ On February 20, 2024, the Commission withdrew the April proposal and instead proposed new Regulation 1.44, which would codify the staff's no-action position in Part 1 rather than Part 39 and would apply directly to all futures commission merchants (FCMs), with respect to their customers, a margin adequacy requirement.²¹

In addition, the CFTC proposed amendments to Regulation 1.25, which addresses specified categories of permitted investments for FCMs and DCOs.²² If the proposed amendments are adopted, the Commission will, among other things, revise the list of permitted investments to "(i) add two new asset classes (i.e., specified foreign sovereign debt instruments and certain exchange-traded funds...), subject to certain conditions, (ii) limit the scope of money market funds ... whose interests qualify as Permitted Investments, and (iii) remove corporate notes, corporate bonds, and commercial paper."²³ The proposed amendments to Regulation 1.25, along with proposed Regulation 1.44 and the proposed amendments to the requirements for DCOs holding clearing member funds, demonstrate the Commission's focus on risk management at FCMs and DCOs.

6. The issue of conflicts of interest among affiliated entities remains a hot topic, even with long-standing regulations in place to address these relationships.

CFTC staff issued a request for comment on potential issues that may arise when DCOs, DCMs and SEFs are affiliated with an intermediary (e.g., an FCM) or other market participants.²⁴ The staff requested input on 37 specific questions related to whether affiliate DCOs, DCMs or SEFs could provide proper oversight of affiliated entities.

Affirming its focus on addressing conflicts of interest among participants, the CFTC issued a proposed rule on February 20, 2024, that would concurrently amend SEF and DCM rules to, among other things, establish governance requirements regarding market regulation functions as

²⁰ Derivatives Clearing Organization Risk Management Regulations To Account for the Treatment of Separate Accounts by Futures Commission Merchants, 88 Fed. Reg. 39205 (June 15, 2023), <https://www.cftc.gov/sites/default/files/2023/06/2023-12832a.pdf>; CFTC Letter No. 19-17 (July 10, 2019), <https://www.cftc.gov/csl/19-17/download>.

²¹ *CFTC Approves Proposed Rules and Other Commission Business* (Feb. 20, 2024), <https://www.cftc.gov/PressRoom/PressReleases/8866-24>.

²² Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations, 88 Fed. Reg. 81236 (Nov. 21, 2023), <https://www.cftc.gov/sites/default/files/2023/11/2023-24774a.pdf>.

²³ Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations, 88 Fed. Reg. 81236, 81239 (Nov. 21, 2023).

²⁴ Request for Comment on the Impact of Affiliations on Certain CFTC-Regulated Entities (June 27, 2023), <https://www.cftc.gov/media/8826/rfcimpactaffiliations062823/download>.

well as related conflicts of interest standards, and also rules for identifying, managing and resolving conflicts of interest.²⁵

7. The CFTC continues to closely scrutinize political event contract markets.

The CFTC issued a long-awaited decision in an ongoing debate regarding political event contracts. On September 22, 2023, the CFTC issued an Order disapproving a certification of political binary event contracts by KalshiEX LLC pursuant to CFTC Regulation 40.2. The original submission, filed June 12, 2023, related to a contract that allowed participants to take positions on which political party would control each of the US House of Representatives and US Senate. On November 1, 2023, Kalshi sued the CFTC, filing a complaint in the US District Court for the District of Columbia asking the court to vacate it.²⁶ Notably, the disapproval followed an opinion issued by the 5th Circuit Court of Appeals regarding the operation of a political event contract market pursuant to long-standing CFTC no-action relief.

CFTC staff have permitted political event contract markets to exist in a semi-regulated environment for a decade pursuant to no-action letter relief. However, the actions in 2023 suggest that the CFTC will continue to take steps to limit the existence of CFTC-regulated political event contracts as derivatives. We discussed the state of prediction markets in our client alert available [here](#).

8. The CFTC continues to review and revise its commodity pool operator (CPO) and commodity trading advisor (CTA) disclosure regimes.

On October 2, 2023, the CFTC proposed amendments to CFTC Regulation 4.7, which would amend the regime, and increase the obligations, for CPOs and CTAs offering products exclusively to qualified eligible persons (QEPs).²⁷ The significant changes would (i) increase the portfolio threshold to be a QEP and (ii) increase disclosure obligations. The disclosure obligations would impose minimum requirements relating to disclosure of risk factors, the investment program, fees, conflicts and performance. The proposed rule also would create a more formal regime related to promotional and advertising practices. We discussed the proposal more extensively at the time [here](#).

The proposed increase in regulation of CPOs and CTAs follows the trend of increased regulation of private fund managers. The Securities and Exchange Commission (SEC) adopted final rules in August 2023 significantly increasing the regulatory burden on registered investment advisers to

²⁵ Requirements for Designated Contract Markets and Swap Execution Facilities Regarding Governance and the Mitigation of Conflicts of Interest Impacting Market Regulation Functions (proposed Feb. 20, 2024), https://www.cftc.gov/media/10286/DCMSEF-NPRM_asapproved022024/download.

²⁶ *KalshiEX LLC v. Commodity Futures Trading Commission*, No.1:23-cv-03257 (D.D.C. Nov. 1, 2023).

²⁷ Commodity Pool Operators, Commodity Trading Advisors, and Commodity Pools: Updating the 'Qualified Eligible Person' Definition; Adding Minimum Disclosure Requirements for Pools and Trading Programs; Permitting Monthly Account Statements for Funds of Funds; Technical Amendments, 88 Fed. Reg. 70852 (Oct. 12, 2023), <https://www.cftc.gov/sites/default/files/2023/10/2023-22324a.pdf>.

private funds. We also discussed these sweeping changes [here](#). The SEC also adopted final rules to include significant market participants as “dealers,” including potentially private funds and their advisers. We discussed these significant changes [here](#).

9. The CFTC, and the SEC, continue to expand the scope of Form PF.

On February 8, 2024, the CFTC approved a final rule amending Form PF, the confidential reporting form for certain SEC-registered investment advisers to private funds, including those that also are registered with the CFTC as a commodity pool operator or commodity trading adviser.²⁸ The SEC concurrently adopted a final rule as well, the second rule it adopted regarding Form PF in the past 12 months.²⁹ In adopting the amended form, the CFTC noted that the changes were “to enhance the Financial Stability Oversight Council’s ability to monitor systemic risk, as well as to bolster the regulatory oversight of private fund advisers and investor protection efforts.” As Form PF data is confidential, the two agencies also entered into a memorandum of understanding (MOU) related to the sharing of the Form PF data between the two agencies.

CFTC Commissioner Caroline Pham and SEC Commissioner Mark Uyeda dissented from the MOU, noting that “Form PF filing contains highly sensitive proprietary information about a specific advisory firm, inadvertent public disclosure of which could create significant harm to that firm and its clients,” and further noting that “the MOU will provide the CFTC with access to all Form PF data, which is beyond the scope of the CFTC’s jurisdiction or need.” The two Commissioners also noted that the CFTC and SEC do not have stellar track records with cybersecurity.

Enforcement Agenda

10. The CFTC continues to pursue an aggressive enforcement agenda in terms of cases brought and remedies imposed.

As noted in the Division of Enforcement’s 2023 Annual Report, the Division brought a record 96 actions and obtained a record \$4.3 billion in civil monetary penalties, restitution and disgorgement. The 96 actions encompassed “a record setting number of digital asset cases, actions to hold registrants to their regulatory obligations, manipulation and spoofing actions, and precedent-setting court decisions in complex litigations.”³⁰ While the recoveries obtained in 2023 were double those obtained in 2022, \$2.7 billion of the \$4.3 billion—or roughly 63 percent—stemmed from a single

²⁸ Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers, Advisers Act Release No. 6546 (Feb. 8, 2024), <https://www.sec.gov/files/rules/final/2024/ia-6546.pdf>.

²⁹ See Form PF; Event Reporting for Large Hedge Fund Advisers and Private Equity Fund Advisers; Requirements for Large Private Equity Fund Adviser Reporting, Advisers Act Release No. 6297 (May 3, 2023), <https://www.sec.gov/files/rules/final/2023/ia-6297.pdf>.

³⁰ *CFTC Releases FY 2023 Enforcement Results*, CFTC Press Release No. 8822-23 (Nov. 7, 2023), <https://www.cftc.gov/PressRoom/PressReleases/8822-23>.

case against a cryptocurrency exchange for allegedly operating an illegal digital asset derivatives exchange.³¹

That said, we expect continued upward pressure on penalties imposed. In October 2023, the Division of Enforcement issued new guidance on penalties, monitors and admissions (the Advisory).³² The Advisory explains that, going forward, the Division is “recalibrating how it is assessing” proposed penalties, to “ensure they are at the level necessary to deter misconduct.”³³ This recalibration is likely to result in higher penalties than have been imposed previously in similar cases, particularly in matters involving multiple market participants violating similar laws in similar ways and matters involving perceived recidivists.

At the same time, the Advisory affirmed that the Division’s previous guidance on the potential for penalty reduction resulting from self-reporting, cooperation and remediation “remain[s] in effect and continue[s] to constitute essential components of the Division’s enforcement efforts.”³⁴ This creates an interesting dynamic whereby penalties may increase compared to historic norms for most cases, even for respondents that fully cooperate, while entities that self-disclose violations, provide extraordinary cooperation and fully remediate may receive far lower penalties for similar misconduct.

11. The Division of Enforcement has put registrants on notice that it will seek to impose monitorships and consultants where it lacks confidence that an entity will remediate misconduct on its own.

The October 2023 Advisory also highlights the use of corporate compliance monitors and consultants to minimize the risk of future misconduct, specifically noting that they will be sought when the Division has concerns about an entity’s ability to remediate without third-party assistance. A consultant has been imposed in each of the eight actions brought against financial institutions in 2023 for recordkeeping and supervisory failures associated with off-channel communications. We anticipate that, going forward, the Division will recommend similar undertakings in a broader range of enforcement actions.

³¹ Consent Order, *CFTC v. Zhao*, No. 1:23-cv-01887 (N.D. Ill. Dec. 14, 2023), ECF No. 80, <https://www.cftc.gov/media/9981/enfchangpengzhaoconsentorder121423/download>. The CFTC also ordered \$1.7 billion in restitution and a \$1.7 billion penalty—the highest civil monetary penalty ever imposed by the CFTC—in a default judgment against the owner and CEO of Mirror Trading International Proprietary Limited involving a fraudulent Bitcoin scheme, but those amounts have not been recovered. Order, *CFTC v. Mirror Trading International Proprietary Ltd.*, No. 1:22-cv-635-LY (W.D. Tex. Apr. 24, 2023), <https://www.cftc.gov/media/8506/enfsteynbergfinaldefaultjudgment042423/download>.

³² Commodity Futures Trading Commission, Advisory Regarding Penalties, Monitors and Consultants, and Admissions in CFTC Enforcement Actions (Oct. 17, 2023), https://www.cftc.gov/media/9466/EnfAdv_Resolutions/download.

³³ *Id.* at 2.

³⁴ *Id.* at 1, note 2.

The Advisory notes that the Division anticipates recommending monitors in “cases involving the most significant and/or pervasive compliance and control failures reflecting a lack of sufficient commitment to effective compliance,”³⁵ and anticipates recommending consultants in serious but less severe cases. Unsurprisingly, the Advisory notes elsewhere that the Division will be more inclined to recommend a monitor or consultant in actions involving recidivist entities.³⁶

12. The CFTC brought its first case against a chief compliance officer, demonstrating its willingness to charge CCOs for what it perceives to be “egregious conduct.”

In November 2023, the CFTC charged the chief compliance officer (CCO) of a cryptocurrency exchange with violating the Commodity Exchange Act (CEA) and willfully aiding and abetting the firm’s violations of the CEA. This action represents the first time the CFTC has imposed liability on a compliance officer individually. The consent order finds that the CCO violated CFTC Regulation 1.6 “by conducting activities outside the United States, including entering into agreements, contracts, and transactions and structuring entities, to willfully evade or attempt to evade” the CEA’s provisions.³⁷ The CFTC proclaimed that “Binance’s compliance efforts have been a sham and Binance deliberately chose – over and over – to place profits over following the law,” noting that it “will pursue those digital asset platforms and individuals who flout and actively attempt to circumvent CFTC regulatory requirements.”³⁸

In a statement in support of the consent order, Commissioner Caroline Pham commented that the charges against the CCO “emphasize the critical necessity of having a robust compliance program” with “personnel that have the requisite character, expertise, and experience.”³⁹ At the same time, Commissioner Pham cautioned that CCO liability should be reserved for the most “egregious conduct” and should not be imposed “for honest or good-faith mistakes.”⁴⁰ Commissioner Pham’s statements mirror the framework that the SEC Division of Enforcement has adopted, specifically showing a willingness to institute enforcement actions against compliance personnel where (1) they

³⁵ Commodity Futures Trading Commission, Advisory Regarding Penalties, Monitors and Consultants, and Admissions in CFTC Enforcement Actions (Oct. 17, 2023).

³⁶ *Id.* at 3.

³⁷ Consent Order, CFTC v. *Zhao*, No. 1:23-cv-01887 (N.D. Ill. Dec. 14, 2023), ECF No. 79, <https://www.cftc.gov/media/9976/enfsamuellimconsentorder121423/download>.

³⁸ CFTC Charges Binance and Its Founder, Changpeng Zhao, with Willful Evasion of Federal Law and Operating an Illegal Digital Asset Derivatives Exchange (March 27, 2023), <https://www.cftc.gov/PressRoom/PressReleases/8680-23>.

³⁹ CFTC, Statement of Commissioner Caroline D. Pham on Chief Compliance Officer Liability (Nov. 21, 2023), <https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement1213>.

⁴⁰ *Id.*

affirmatively participated in the misconduct, (2) they misled regulators or (3) there was a wholesale failure to carry out compliance responsibilities.⁴¹

13. The CFTC will continue its enforcement focus on swaps reporting and business conduct standards.

We expect that compliance with swaps reporting and business conduct standards will continue to be a focus for the Division of Enforcement. The Commission's regulations under Dodd-Frank have been in place for over a decade, and the CFTC appears to be increasingly focused on ensuring that firms are meeting the associated business conduct standards. For example, in September, the CFTC charged three global swap dealers for swap data compliance failures related to swap data reporting⁴² and, in the case of one institution, failures related to the disclosure of pre-trade mid-market marks.⁴³ These orders and associated Commission statements make clear that the Commission views the swap dealer business conduct standards as key customer protection and transparency requirements.

14. The CFTC continues to prioritize investigation integrity, including charging firms that even negligently provide inaccurate or incomplete information during the enforcement process.

The Commission has the authority under Section 6(c)(2) of the CEA to bring actions against any person who negligently provides false or misleading information to the Commission or its staff, including during Division of Enforcement investigations. In September, the CFTC announced charges against a large financial institution for, among other things, material omissions in a letter to the Division of Enforcement regarding a potentially disruptive trading incident.⁴⁴ The order finds that the institution failed to disclose that it had adopted a control designed to prevent similar issues, which had malfunctioned during the incident in question. The CFTC later learned of this information from the self-regulatory organization to which the institution had disclosed it in connection with a parallel investigation.

⁴¹ Gurbir S. Grewal, Director of Enforcement, SEC, Remarks at New York City Bar Association Compliance Institute (Oct. 24, 2023), <https://www.sec.gov/news/speech/grewal-remarks-nyc-bar-association-compliance-institute-102423>.

⁴² *In re Goldman Sachs & Co. LLC*, CFTC Docket No. 23-59 (Sept. 29, 2023), <https://www.cftc.gov/media/9411/enfgoldmansachsorder092923/download>; *In re Bank of America, N.A. and Merrill Lynch International*, CFTC Docket No. 23-58 (Sept. 29, 2023), <https://www.cftc.gov/media/9401/enfmerrilllynchinternationalorder092923%20%20%20/download>; *In re JPMorgan Chase Bank, N.A.*, CFTC Docket No. 23-61 (Sept. 29, 2023), <https://www.cftc.gov/media/9421/enfjpmorganorder092923/download>.

⁴³ *Goldman*, CFTC Docket No. 23-59. See also *In the Matter of Goldman Sachs & Co. LLC*, CFTC Docket No. 23-09 (Apr. 10, 2023) (finding that a provisionally registered swap dealer failed to satisfy the CFTC's Business Conduct Standards by failing to disclose all material information and failing to communicate in good faith and in a fair and balanced manner when soliciting US-based clients for certain equity index swaps).

⁴⁴ *In re Goldman Sachs & Co. LLC*, CFTC Docket No. 23-60 (Sept. 29, 2023), <https://www.cftc.gov/media/9416/enfgoldmansachsorder092923/download>.

These matters highlight the importance of conducting appropriate diligence before providing information to the staff in the course of an enforcement inquiry or exam. Even if investigations into the accuracy of representations made or information provided to the staff do not ultimately lead to charges, they can be extremely burdensome and expensive.

15. The CFTC continues to pursue market-wide “sweeps” for recordkeeping failures.

As noted above, a big driver for 2023 was the continued sweep of off-channel communications activity. The CFTC has charged a number of swap dealers and futures commission merchants for allegedly failing to stop their employees from conducting CFTC-related business using unapproved channels. In total, the Commission's actions resulted in settlements against eight firms and \$331 million in monetary penalties in 2023.

Conducting market-wide sweeps focused on a particular regulation allows the CFTC to send a message to the industry and reinforce the importance of complying with the relevant regulation. For this reason, we expect the Commission to pursue similar market-wide investigations more broadly in 2024.

16. The CFTC is willing to use CEA Section 8a to revoke registrations following findings of serious misconduct.

Another unique development in 2023 was the CFTC's proceedings to revoke Allianz Global Investors US LLC's (AGI US) CTA and CPO registrations.⁴⁵ The CFTC brought this proceeding under Section 8a of the CEA, which gives the CFTC the authority to institute revocation proceedings against any entity that violates the securities or commodities laws. In practice, this authority has been very rarely used.

The CFTC's action against AGI US follows actions brought by the Department of Justice and SEC regarding a complex options strategy that led to multibillion-dollar investor losses. AGI US pled guilty to one count of criminal securities fraud⁴⁶ and settled to SEC charges of “defrauding investors over multiple years, concealing losses and downside risks of a complex strategy, and failing to implement key risk controls.”⁴⁷ Following these actions, the SEC granted AGI US a temporary exemption from the resulting disqualification under Section 9 of the Investment Company Act,⁴⁸ which effectively forced AGI US to divest its operations.

⁴⁵ CFTC, Notice of Intent to Revoke the Registrations of Allianz Global Investors US LLC, *In re Allianz Global Investors US LLC*, CFTC Docket No. SD 23-01 (Mar. 21, 2023), <https://www.cftc.gov/media/8316/enfallianznnoticeofintent032123/download>.

⁴⁶ *United States v. Allianz Glob. Inv'rs U.S.*, 1:22-cr-00279-CM (S.D.N.Y. May 17, 2022).

⁴⁷ Order, *In re Allianz Global Investors U.S. LLC*, Release No. 94927 (May 17, 2022), <https://www.sec.gov/news/press-release/2022-84>.

⁴⁸ SEC, Notice of Application and Temporary Order, *In re Allianz Global Investors U.S. LLC*, Release No. IC-34587 (May 17, 2022), <https://www.sec.gov/files/rules/ic/2022/ic-34587.pdf>.

It remains to be seen whether this is a one-off event given the exceptional circumstances or whether the Commission will seek to use Section 8a in other contexts. Market participants should be mindful of these potential collateral proceedings when negotiating with the CFTC.

17. The CFTC continued to use its authority to bring actions in the digital asset market related to registration violations, fraud and market manipulation.

In 2023, the CFTC brought significant enforcement actions related to digital assets, including actions against executives of platforms alleging fraud and registration violations. The actions listed here are among the more notable CFTC enforcement actions brought against crypto intermediaries, executives and market participants, but this is certainly not an exhaustive list. The CFTC brought a record-setting 47 enforcement actions involving conduct related to digital asset commodities, representing more than 49 percent of all actions filed during the year.⁴⁹ These actions include those against individuals for perpetrating fraudulent schemes and for fraudulently soliciting US customers, and an enforcement sweep in which the CFTC charged 14 entities with fraudulently claiming to be registered with the agency.

In March 2023, the CFTC filed a lawsuit against Binance Holdings Ltd. and its founder, Changpeng Zhao (CZ), which alleged Binance operated a crypto derivatives exchange without registering with the CFTC. Specifically, the complaint alleged that Binance failed to register as a futures commission merchant, designated contract market or swap execution facility; offered and executed illegal off-exchange commodity transactions; and failed to implement “know your customer” or anti-money laundering processes, among other violations of the CEA and CFTC regulations. The CFTC found CZ personally liable as the decision-maker behind Binance’s violative conduct and imposed a \$150 million penalty. Collectively, CZ and Binance agreed to pay nearly \$3 billion to settle the charges in December 2023, resulting in one of the largest fines in history.⁵⁰

The CFTC also brought a number of actions in the wake of the bankruptcies of crypto firms, including actions against the executives of these companies. First, in July 2023, the CFTC filed a complaint against Celsius Network and its co-founder and former CEO, Alex Mashinsky. The complaint accused Mashinsky of engaging in a “scheme to defraud hundreds of thousands of customers by misrepresenting the safety and profitability of its digital asset-based finance platform.”⁵¹ The complaint further alleged that Celsius failed to register as a commodity pool operator and

⁴⁹ FY 2023 Enforcement Results, *supra* note 30.

⁵⁰ *Commodity Futures Trading Comm’n v. Changpeng Zhao, et al.*, No.1:23-cv-01887 (N.D. Ill. 2023).

⁵¹ *Commodity Futures Trading Comm’n v. Celsius Network, LLC and Alexander Mashinsky*, No.1:23-cv-06008 (S.D.N.Y. 2023).

provide disclosures to its customers. Specifically, the CFTC alleged that Celsius and Mashinsky promoted the safety and viability of the company while failing to disclose losses to customers.⁵²

Second, in October 2023, the CFTC filed a complaint against the former CEO of Voyager Digital, Steven Ehrlich, for fraud.⁵³ The CFTC's complaint alleged that Ehrlich failed to register as an associated person of a CPO and made misleading statements to Voyager's customers about the safety of their assets. According to the CFTC, Voyager allegedly "took excessive risks with customer assets" and made significant transfers to "high-risk" third parties to fund its rewards program, which promised customers a return as high as 12 percent.⁵⁴

The CFTC also brought an action against a market participant for oracle manipulation (i.e., market manipulation involving oracle technology, which sources data for decentralized finance (DeFi) programs). On October 12, 2023, the Commission filed a complaint against Avraham Eisenberg for allegedly manipulating the price of MNGO-USDC swaps on a decentralized exchange called Mango Markets. Eisenberg allegedly entered into swaps and bought large quantities of MNGO on the exchanges from which Mango Markets' oracle pulled market prices, leading to an increase in prices on the exchanges. When the value of his swaps increased, Eisenberg used them as collateral to borrow approximately \$114 million in crypto assets, draining the platform of most of the assets that had been deposited by other users.

In 2024, we expect there to be continued aggressive enforcement actions against crypto intermediaries and market participants.

The Political Climate Surrounding the CFTC

18. The CFTC continues to demonstrate its digital asset regulatory capabilities as Congress considers comprehensive market structure legislation.

Despite its limited enforcement authority, as described above, the CFTC has established itself as an effective regulator of digital commodity derivatives markets. There was a surge of activity from Congress in 2023 as the crypto industry continued to seek regulatory clarity. Lawmakers introduced stand-alone crypto bills that gained record traction in both chambers: the House Financial Innovation Technology for the 21st Century Act (FIT21) and the Senate Responsible Financial

⁵² On Sept. 19, 2023, the US District Court for the Southern District of New York granted a motion to stay the lawsuit until the completion of a parallel criminal case, *U.S. v. Mashinsky, et al.*, No.1:23-cr-00347 (S.D.N.Y. July 11, 2023).

⁵³ *Commodity Futures Trading Comm'n v. Stephen Ehrlich*, No. 1:23-cv-8962 (S.D.N.Y. 2023).

⁵⁴ *Id.* at 2.

Innovation Act (RFIA). Both the House and Senate bills would establish a regulatory framework for digital assets and grant the CFTC authority over digital asset spot markets.⁵⁵

FIT21 was introduced as an updated version of the Digital Asset Market Structure discussion draft that was jointly released in June 2023 by the House Financial Services and Agriculture Committees.⁵⁶ FIT21 would divide oversight of crypto market intermediaries between the CFTC and SEC but would grant primary jurisdiction over digital asset markets to the CFTC. FIT21 advanced out of both the House Committee on Financial Services and the House Committee on Agriculture, becoming the first stand-alone crypto bill advanced out of committee that was not part of a larger piece of legislation. The bill has not yet gone to the full House for a vote. Regardless, we do not expect the Democratic-led Senate to take up FIT21 during this Congress.

Senators Cynthia Lummis and Kirsten Gillibrand reintroduced the RFIA in the 118th Congress, which modified certain provisions of the prior version of the bill.⁵⁷ The RFIA aims to clarify the regulatory framework for digital assets and would grant the CFTC jurisdiction over the crypto spot market. Compared to FIT21, the RFIA contains comprehensive provisions that address customer protections, stablecoin issuance and tax implications for digital assets.⁵⁸ The bill remains subject to ongoing negotiations, and has not yet been reintroduced in this Congress.

19. The Congressional Review Act provides urgency for Commission action in 2024.

With 2024 elections approaching, there is a heightened sense of urgency for federal agencies to complete rulemaking before the “lookback” provision deadline in the Congressional Review Act (CRA). The CRA requires federal agencies to report the issuance of rules to Congress and allows Congress to disapprove (i.e., eliminate) a final rule through a joint resolution of disapproval. The lookback provision allows an incoming Congress to review the past 60 days of rules issued during the previous Congress. This creates a condition immediately following a presidential election where an incoming Congress can exercise the disapproval procedure without the threat of a presidential veto. Further, an incoming administration might work with Congress to remove regulations through the CRA’s retroactive authority rather than through the more difficult repeal process.⁵⁹

⁵⁵ The CFTC has jurisdiction over futures and derivatives but does not have regulatory authority over the spot market for digital asset commodities. The CFTC’s enforcement authority is limited to pursuing fraud and manipulation in the spot market.

⁵⁶ Digital Asset Market Structure discussion draft, House Comm. on Fin. Services & House Comm. on Agric. (June 2, 2023), https://financialservices.house.gov/uploadedfiles/digital_002_xml.pdf.

⁵⁷ See *What’s New in Lummis-Gillibrand 2023*, <https://www.lummis.senate.gov/wp-content/uploads/Whats-New-in-Lummis-Gillibrand-2023-Final.pdf>.

⁵⁸ The House Financial Services Committee passed a separate piece of legislation to address the issuance of stablecoins. See Clarity for Payment Stablecoins Act of 2023, H.R. 4766, 118th Cong. (2023).

⁵⁹ Repealing a rulemaking would require formal notice and comment proceedings. Additionally, any “determination, finding, action, or omission under” the CRA is not subject to judicial review. See 5 U.S.C. § 805.

Under the lookback provision, any member of the House or Senate can introduce a joint resolution disapproving a final agency rule within 60 days of continuous session after agencies submit the rule to Congress, and the resolution only requires a simple majority vote.⁶⁰ If a rule that has already taken effect is the subject of an enacted CRA joint resolution of disapproval, the rule goes out of effect immediately and is “treated as though such rule had never taken effect.”⁶¹ If the rule has not yet gone into effect when the resolution of disapproval is enacted, it will not take effect. The agency is also prevented from reissuing a rule “in substantially the same form, and a new rule that is substantially the same” in the future, unless Congress authorizes it to do so via subsequent legislation.⁶²

The Trump Administration used the CRA to nullify 15 rules that were finalized under the Obama Administration.⁶³ Thus, the timing of rulemakings could be impacted by the lookback deadline as agencies try to avoid issuing new rules that would be eligible for review under the CRA.

Looking Forward: Hot Topics in 2024

20. The CFTC has positioned itself as both a regulator of, and thought leader on, decentralized finance.

The CFTC has increased its focus on DeFi. The Commission brought enforcement actions against developers of DeFi protocols and other DeFi participants for, among other things, registration violations. In the future, the CFTC is likely to bring additional enforcement actions against DeFi market participants alleging registration failures and other violations of the CEA and CFTC regulations.

In June 2023, the Commission obtained a default judgment against a decentralized autonomous organization (DAO) known as Ooki DAO as an unincorporated association.⁶⁴ The Northern District of California held that the DAO is a “person” under the CEA and therefore can be held liable for violations of the CEA and CFTC regulations. Separately, in September 2023, the CFTC issued orders simultaneously filing and settling charges against three DeFi protocol developers for illegally offering leveraged and margined retail commodity transactions in digital assets. Two of those

⁶⁰ The current House and Senate schedules indicate that the CRA deadline is May 22, 2024.

⁶¹ 5 U.S.C. § 801(f).

⁶² 5 U.S.C. § 801(b)(2).

⁶³ P.J. Larkin, Jr., *The Trump Administration and the Congressional Review Act*, 16 Geo. J.L. & Pub. Pol’y 505, 512 (2018).

⁶⁴ *Commodity Futures Trading Comm’n v. Ooki DAO*, 2023 WL 5321527 (N.D. Cal. 2023).

entities were also charged with failing to register as a futures commission merchant and failing to adopt a customer identification program as part of a Bank Secrecy Act compliance program.⁶⁵

The Digital Assets and Blockchain Subcommittee of the CFTC's Technology Advisory Committee (TAC), sponsored by Commissioner Christy Goldsmith-Romero, presented a 79-page report titled "Decentralized Finance" to the CFTC.⁶⁶ The CFTC's TAC was formed in 1999 to advise the Commission on issues at the intersection of technology, law, policy and finance, and the Subcommittee includes various stakeholders from industry and academia.⁶⁷ The TAC has three subcommittees, and it recently addressed a variety of issues, including artificial intelligence (AI), cybersecurity, electronic trading risk principles and volatility of digital assets.

The report provides a relatively technical overview of DeFi technology, associated risks and opportunities, and potential policy objectives. The goal of the report is to offer a general roadmap of DeFi for regulators and policymakers.

The report does not represent the views of the Commission, but it does reinforce the CFTC's role as a thought leader and constructive contributor to US federal regulatory policymaking. The subcommittee encourages regulators and policymakers to engage in a more "constructive" dialogue with industry, and it is possible the report will mark the beginning of a more programmatic and thoughtful approach to DeFi regulation. We discuss the DeFi report more extensively [here](#).⁶⁸

21. The CFTC is considering regulations designed to address risks related to artificial intelligence in CFTC-regulated markets.

Recently, CFTC staff issued a request for comment (RFC) on the current and potential uses and risks of AI in the markets that the CFTC regulates. Chairman Behnam explained that the purpose of the RFC is to help the CFTC "understand current and potential AI use cases and the associated potential risks to [its] jurisdictional markets and the larger financial system." The RFC includes 20 questions that are specific to the use of AI in CFTC-regulated markets and are divided into two groups of questions: the first concerns current and potential uses of AI in CFTC-regulated markets, and the second concerns the potential risks that AI could pose to CFTC-regulated markets. The RFC was prompted in part by an executive order issued by the Biden Administration encouraging

⁶⁵ *In the Matter of Opyn, Inc.*, CFTC Docket No. 23-40 (Sept. 7, 2023); *In the Matter of ZeroEx, Inc.*, CFTC Docket No. 23-41 (Sept. 7, 2023); *In the Matter of Deridex, Inc.*, CFTC Docket No. 23-42 (Sept. 7, 2023).

⁶⁶ Digital Assets and Blockchain Subcommittee of the CFTC Technology Advisory Committee, DeFi Report (Jan. 8, 2024), <https://www.cftc.gov/PressRoom/SpeechesTestimony/romerostatement010824b>.

⁶⁷ "Technology Advisory Committee," Commodity Futures Trading Commission (accessed on Jan. 10, 2024), <https://www.cftc.gov/About/AdvisoryCommittees/TAC>.

⁶⁸ "CFTC Advisory Subcommittee Issues Report on DeFi: Issues, Findings and Recommendations" (Feb. 16, 2024), <https://www.wilmerhale.com/en/insights/client-alerts/20240215-cftc-advisory-subcommittee-publishes-report-on-defi>.

independent regulatory agencies, such as the CFTC, to use their authorities to protect consumers from fraud and other risks posed by the use of AI.

As the CFTC continues to explore use cases for AI, information gathered from the RFC will guide policymaking by CFTC staff. The staff asks questions related to topics such as cybersecurity, data quality, market manipulation and fraud, and the use of AI in activities of interest to the CFTC, including trading, data processing and analytics, risk management, compliance, books and records, systems development, and customer interactions. The deadline to submit comments is April 25, 2024, and more information is available in our recent client alert [here](#).⁶⁹

22. The CFTC is leading the charge on pursuing fraud in the carbon credit markets.

In the past few years, and particularly in 2023, the CFTC has ramped up efforts to regulate carbon markets and we expect that focus to continue in 2024.

In June 2023, the CFTC announced the establishment of an Environmental Fraud Task Force to “combat environmental fraud and misconduct” in regulated derivatives markets and spot markets such as voluntary carbon credit markets.⁷⁰ The task force was created to, among other things, investigate fraud relating to “purported environmental benefits of purchased carbon credits, as well as registrants’ material misrepresentations regarding ESG products or strategies.”⁷¹ According to an alert issued by the Commission’s Whistleblower Office in the same month, the CFTC will target “potential fraud in the carbon markets including, but not limited to, manipulative and wash trading, ‘ghost’ credits, double counting, fraudulent statements relating to material terms of the carbon credits, and potential manipulation of tokenized carbon markets.”⁷²

Chairman Behnam has remarked that “the CFTC has an important policy responsibility to promote product innovation, price discovery, and liquidity for high-quality carbon credits that are the underlying commodity for derivatives products listed on CFTC-registered exchanges.”⁷³ In December, the CFTC issued proposed guidance and a request for public comment regarding the listing of voluntary carbon credit derivative contracts,⁷⁴ which “outlines factors that an exchange

⁶⁹ “CFTC Issues Request for Comment on Uses of AI” (Feb. 2, 2024), <https://www.wilmerhale.com/insights/client-alerts/20240201-cftc-issues-request-for-comment-on-uses-of-ai>.

⁷⁰ *CFTC Division of Enforcement Creates Two New Task Forces*, Release No. 8736-23 (June 29, 2023), <https://www.cftc.gov/PressRoom/PressReleases/8736-23>.

⁷¹ *Id.*

⁷² *CFTC Whistleblower Office Issues Alert Seeking Tips Relating to Carbon Markets Misconduct*, Release No. 8723-23 (June 20, 2023), <https://www.cftc.gov/PressRoom/PressReleases/8723-23>.

⁷³ *CFTC Announces Second Voluntary Carbon Markets Convening on July 19* (July 19, 2023), <https://www.cftc.gov/PressRoom/Events/opaeventvoluntarycarbonmarkets071923>.

⁷⁴ Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts; Request for Comment, 88 Fed. Reg. 89410 (Dec. 27, 2023), <https://www.cftc.gov/sites/default/files/2023/12/2023-28532a.pdf>.

should consider in connection with the specification and monitoring of contract terms and conditions” to ensure compliance with the CEA and CFTC regulations.⁷⁵

The flurry of activity in 2023 reflects the CFTC’s focus on carbon markets and leadership in this space. We can expect the CFTC to continue to position itself as a leader in this space in the coming years, from both a regulatory and an enforcement perspective, particularly in light of the rapid growth in the voluntary carbon market and the White House’s focus on climate risk.

23. The CFTC’s budget remains a persistent limitation on the Commission’s expanding jurisdiction.

Since 2010, when Dodd-Frank was passed, the CFTC has expanded its jurisdiction from futures and options to include over-the-counter swaps. Since then, the CFTC has deployed its anti-fraud and anti-manipulation authority to address activities in other areas, including digital assets and voluntary carbon credits. The CFTC’s budget has not increased proportionally to reflect the increases in market size, complexity and participation. As a result, the CFTC regularly has to “make difficult choices when it comes to how [to] address the emerging challenges to our markets while keeping pace with innovation.”⁷⁶

Last year, the CFTC requested that Congress fund the CFTC with a budget of \$411 million and 764 full-time employees, reflecting a 12.6 percent increase over the FY 2023 budget of \$365 million. The CFTC sought the additional \$46 million to “meet cost increases across the agency,” and “fund[] new initiatives and fully fund[] and accelerate[] existing projects.”⁷⁷ As Chairman Behnam has noted before, “the CFTC is the only financial market regulator that relies on appropriated dollars from Congress for its funding. Other financial regulators have self-funding mechanisms in place that provide greater assurance that their fiscal year budget requests will be fully funded.”⁷⁸

As we consider the difficult federal spending environment, with continuing resolutions set to expire in a matter of days, we recognize the challenges of predicting the CFTC’s potential funding levels for the remainder of the government’s fiscal year, let alone the CFTC’s potential budget in the next presidential administration. However, while Congress considers CEA reauthorization, the CFTC’s role in digital asset spot market regulation (discussed above), and the CFTC’s role in climate risk

⁷⁵ *CFTC Issues Proposed Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts*, Release No. 8829-23 (Dec. 4, 2023), <https://www.cftc.gov/PressRoom/PressReleases/8829-23>.

⁷⁶ Rostin Behnam, Remarks of Chairman Rostin Behnam at the U.S. Cattlemen’s Association 16th Annual Meeting, Fort Worth, Texas (Dec. 1, 2023), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opabeznam40>.

⁷⁷ Testimony by Chairman Rostin Behnam Before the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies Committee on Appropriations, U.S. House of Representatives (Mar. 28, 2023), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opabeznam35>.

⁷⁸ Rostin Behnam, Testimony of Chairman Rostin Behnam Before The Future of Digital Assets: Providing Clarity for Digital Asset Spot Markets, U.S. House Committee on Agriculture (June 6, 2023), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opabeznam36>.

and voluntary carbon markets, the CFTC will be limited in its ability to fully execute its statutory mission, as well as its examination and enforcement programs, at its current funding level.

With a limited budget, the CFTC will have to balance its competing interests in the policymaking and enforcement arenas for both traditional and novel issues. Despite funding restraints, we expect the CFTC to remain active and engaged in the upcoming year.

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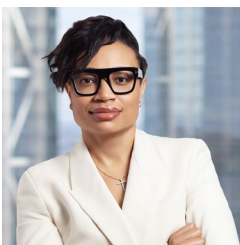
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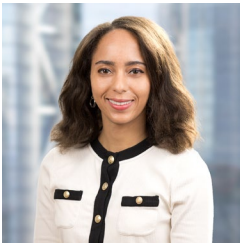
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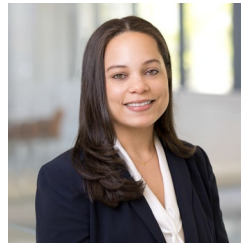
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