

## This Week in Derivatives

November 15, 2024

**From the Derivatives Practice Group:** This week, the European Supervisory Authorities published a Decision on the information that competent authorities must report to them for the designation of critical Information and Communication Technology third-party service providers under the Digital Operational Resilience Act.

## New Developments

- **CFTC Publishes Customer Alert Regarding CFTC v. Traders Domain FX Ltd.** On November 14, the CFTC published an alert to customers who believe they may be victims of alleged fraud by Traders Domain FX Ltd. Customers are urged to complete this voluntary [confidential customer survey](#), which will provide CFTC with pertinent information on this case. [NEW]
- **CFTC Publishes Final Rule Adopting Amendments to Regulations Governing Registered Entities.** On November 7, the CFTC adopted [amendments](#) to its regulations under the Commodity Exchange Act that govern how registered entities submit self-certifications, and requests for approval, of their rules, rule amendments, and new products for trading and clearing, as well as the CFTC's review and processing of such submissions. According to the CFTC, the amendments are intended to clarify, simplify and enhance the utility of those regulations for registered entities, market participants and the CFTC. The effective date for this final rule is December 9, 2024.
- **CFTC Market Risk Advisory Committee to Hold Public Meeting on December 10.** On November 5, the CFTC's Market Risk Advisory Committee ("MRAC") announced that, on

December 10, 2024, from 9:30 a.m. to 12:30 p.m. (Eastern Standard Time), it will hold a public, in-person meeting at the CFTC's Washington, DC headquarters, with options for virtual attendance. The MRAC indicated that it plans to discuss current topics and developments in the areas of central counterparty ("CCP") risk and governance, market structure, climate-related risk, and innovative and emerging technologies affecting the derivatives and related financial markets, including discussions led by the CCP Risk & Governance and Market Structure subcommittees with recommendations related to CCP cyber resilience and critical third-party service providers and the cash futures basis trade, respectively.

- **Commissioner Pham Announces CFTC Global Markets Advisory Committee Meeting on November 21.** CFTC Commissioner Caroline D. Pham, sponsor of the Global Markets Advisory Committee ("GMAC"), announced the GMAC will hold a virtual public meeting Thursday, Nov. 21, from 9:30 a.m. to 10:30 a.m. EST. At this meeting, the GMAC will hear a presentation by the Tokenized Collateral workstream of the GMAC's Digital Asset Markets Subcommittee on expanding use of non-cash collateral through use of distributed ledger technology and consider a recommendation from the Subcommittee. The meeting will also include a presentation by the Utility Tokens workstream of the Digital Asset Markets Subcommittee summarizing their work to-date on defining utility tokens and developing guidance for market participants.

## New Developments Outside the U.S.

- **The ESAs Announce Timeline to Collect Information for the Designation of Critical ICT Third-Party Service Providers under the Digital Operational Resilience Act.** On November 15, the European Supervisory Authorities ("ESAs") published a [Decision](#) on the information that competent authorities must report to them for the designation of critical Information and Communication Technology ("ICT") third-party service providers under the Digital Operational Resilience Act ("DORA"). In particular, the Decision requires competent authorities to report by April 30, 2025 the registers of information on contractual arrangements of the financial entities with ICT third-party service providers. [NEW]
- **ESMA Collects Data on Costs Linked to Investments in AIFs and UCITS.** On November 14, ESMA announced it is launching a data collection exercise together with the national competent authorities ("NCAs"), on costs linked to investments in Alternative Investment Funds ("AIFs") and Undertakings for Collective Investment in Transferable Securities ("UCITS"). ESMA with the NCAs has designed a two-stage data collection involving both manufacturers and distributors of investment funds. Information requested from manufacturers will provide an indication on the different costs charged for the management of the investment funds. Information requested from distributors (i.e., investment firms, independent financial advisors, neo-brokers) will inform on the fees paid directly by investors to distributors. A report based on this data will be submitted to the

European Parliament, the Council and the European Commission in October 2025.  
[NEW]

## New Industry-Led Developments

- **Ark 51 Adopts CDM for CSA Data Extraction.** On November 5, ISDA announced that Ark 51, an artificial intelligence (“AI”) and data analytics service developed by legal services provider DRS, has used the Common Domain Model (“CDM”) to convert information from ISDA’s regulatory initial margin (IM) and variation margin (“VM”) credit support annexes (“CSAs”) into digital form. Ark 51 is a contract and risk management system that uses AI to extract key data from legal agreements, including IM and VM CSAs. The CDM transforms that data into a machine-readable format that can be quickly and efficiently exported to other systems, cutting the resources associated with manual processing.

### Practice Group Members



**Jeffrey L. Steiner**  
Washington, D.C.  
202.887.3632  
[jsteiner@gibsondunn.com](mailto:jsteiner@gibsondunn.com)



**Michael D. Bopp**  
Washington, D.C.  
202.955.8256  
[mbopp@gibsondunn.com](mailto:mbopp@gibsondunn.com)



**Michelle M. Kirschner**  
London  
+44 (0)20 7071.4212  
[mkirschner@gibsondunn.com](mailto:mkirschner@gibsondunn.com)



**Darius Mehraban**  
New York  
212.351.2428  
[dmehraban@gibsondunn.com](mailto:dmehraban@gibsondunn.com)



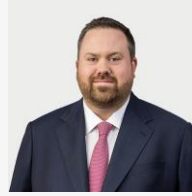
**Jason Cabral**  
New York  
212.351.6267  
[jcabral@gibsondunn.com](mailto:jcabral@gibsondunn.com)



**Adam Lapidus**  
New York  
212.351.3869  
[alapidus@gibsondunn.com](mailto:alapidus@gibsondunn.com)



**Stephanie L. Brooker**  
Washington, D.C.  
202.887.3502  
[sbrooker@gibsondunn.com](mailto:sbrooker@gibsondunn.com)



**William R. Hallatt**  
Hong Kong  
+852.2214.3836  
[whallatt@gibsondunn.com](mailto:whallatt@gibsondunn.com)



**David P. Burns**  
Washington, D.C.  
202.887.3786  
[dburns@gibsondunn.com](mailto:dburns@gibsondunn.com)



**Marc Aaron Takagaki**  
New York  
212.351.4028  
[mtakagaki@gibsondunn.com](mailto:mtakagaki@gibsondunn.com)



**Hayden K. McGovern**  
Dallas  
214.698.3142  
[hmcgovern@gibsondunn.com](mailto:hmcgovern@gibsondunn.com)



**Karin Thrasher**  
Washington, D.C.  
202.887.3712  
[kthrasher@gibsondunn.com](mailto:kthrasher@gibsondunn.com)

Attorney Advertising: These materials were prepared for general informational purposes only based on information available at the time of publication and are not intended as, do not constitute, and should not be relied upon as, legal advice or a legal opinion on any specific facts or circumstances. Gibson Dunn (and its affiliates, attorneys, and employees) shall not have any liability in connection with any use of these materials. The sharing of these materials does not establish an attorney-client relationship with the recipient and should not be relied upon as an alternative for advice from qualified counsel. Please note that facts and circumstances may vary, and prior results do not guarantee a similar outcome.

If you would prefer NOT to receive future emailings such as this from the firm,  
please reply to this email with "Unsubscribe" in the subject line.

If you would prefer to be removed from ALL of our email lists,  
please reply to this email with "Unsubscribe All" in the subject line. Thank you.

© 2024 Gibson, Dunn & Crutcher LLP. All rights reserved. For contact and other information, please visit our [website](#).