

Of Counsel, Washington, D.C.

Derivatives; Financial Institutions Regulation and Enforcement;
Supreme Court and Appellate Litigation



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Education

J.D., Yale Law School, 1994 (Notes Editor, *Yale Law Journal*; Editor, *Yale Law & Policy Review*)

B.A., Yale College, 1990 (*magna cum laude*, with distinction in History)

Bar Admissions

District of Columbia

Maryland

U.S. Supreme Court

U.S. District Court for the District of Columbia

U.S. Court of Appeals for the District of Columbia, First, Second, Fourth, Fifth, Seventh, Ninth, Tenth and Eleventh Circuits

Associations

Edward Coke Appellate Inn of Court

National Association of Criminal Defense Lawyers

Chair, Jurisdictional Working Group, ABA Innovative Digital Products and Processes Subcommittee

Jonathan Marcus represents clients in financial markets litigation in trial and appellate courts. He counsels in government enforcement matters before the Commodity Futures Trading Commission (CFTC), Securities and Exchange Commission (SEC) and Federal Energy Regulatory Commission (FERC). He also advises on a range of issues related to commodity and derivatives regulatory compliance. Mr. Marcus was recognized as a leading lawyer by *Chambers USA 2021*.

Mr. Marcus previously served as general counsel of the CFTC from April 2013 to February 2017, advising the commission on a wide range of issues, including rulemakings and other actions to implement the Dodd-Frank and Commodity Exchange acts.

Before his appointment as general counsel, Mr. Marcus was the CFTC's deputy general counsel for litigation for two years. In that position, he defended the CFTC's Dodd-Frank rules against industry challenge. Before joining the CFTC, Mr. Marcus was of counsel at another major law firm, where he was a member of its Supreme Court & Appellate practice from 2007 to 2011.

Mr. Marcus served at the U.S. Department of Justice as an assistant to the solicitor general from 2004 to 2007, where he argued five cases before the U.S. Supreme Court, including criminal, tax and First Amendment matters. He also served as an appellate attorney in the Criminal Division from 1998 to 2004, arguing numerous cases before the Federal Courts of Appeals. Mr. Marcus began his career as a law clerk to Judge José A. Cabranes of the U.S. Court of Appeals for the Second Circuit. He previously served as an adjunct professor at Georgetown University Law Center from 2008 to 2011.

Mr. Marcus has advised clients in a variety of matters, including representations of:

- a global energy company in an antitrust and Commodity Exchange Act (CEA) class action alleging that the plaintiffs' trading of Brent crude oil derivatives contracts was adversely affected by overseas manipulation of Brent crude oil physical market transactions;
- a global financial institution in a CEA class action alleging manipulation of the precious metals futures markets;
- global financial institutions in an antitrust suit alleging anti-competitive conduct to exclude a competitor from the treasury futures market;
- a global membership association and a digital asset exchange before the CFTC in connection with digital asset issues;
- a global financial institution before the CFTC in connection with exchange- and clearing-related regulatory matters;
- the head of a trading desk in a CFTC investigation concerning possible CEA violations in connection with structured transactions in futures markets. Charges were not pursued after an investigation;
- a global financial institution in an SEC investigation concerning potential anti-fraud violations in connection with the underwriting of municipal bonds. Charges were not pursued after submission of a Wells response; and
- a fund owner in a Fourth Circuit appeal of a decision holding that FERC's civil action alleging manipulation in violation of the Federal Power Act was not time-barred.

Publications

“Supreme Court Curbs FTC’s Authority To Seek Monetary Relief in Federal Court — At Least Temporarily,” *Skadden, Arps, Slate, Meagher & Flom LLP*, April 27, 2021

“Crypto Bills Show Consensus,” *Law360*, April 21, 2021

“CFTC Waivers of SEC Automatic Disqualifications,” *ABA Derivatives and Futures Law Committee Winter Meeting 2021*, January 28, 2021

“As Blockchain Technology and Cryptocurrency Mature, So Do Their Regulation and Enforcement,” *Skadden’s 2021 Insights*, January 26, 2021

“Digital and Digitized Assets: Federal and State Jurisdictional Issues (Sections 2 and 5),” *American Bar Association*, December 2020

“Supreme Court Review of FTC Monetary Relief Authority Threatens Long-Standing Agency Practice,” *Skadden, Arps, Slate, Meagher & Flom LLP*, December 22, 2020

“Key Supreme Court Cases From the 2019-20 Term and a Look Ahead to the 2020-21 Term,” *Skadden, Arps, Slate, Meagher & Flom LLP*, November 9, 2020

“CFTC Issues New Enforcement Guidance on Cooperation Recognition in Its Orders,” *Skadden, Arps, Slate, Meagher & Flom LLP*, November 3, 2020

“ISDA Publishes Supplement and Protocol for Transition From IBOR to Alternative Benchmark Rates,” *Skadden, Arps, Slate, Meagher & Flom LLP*, November 2, 2020

“The Distributed Ledger – October 2020,” *Skadden, Arps, Slate, Meagher & Flom LLP*, October 2020

“CFTC Finalizes Position Limits Rules,” *Skadden, Arps, Slate, Meagher & Flom LLP*, October 20, 2020

“CFTC Amends Swap Data Reporting Rules, Creates Registration Framework for Non-US Clearing Organizations,” *Skadden, Arps, Slate, Meagher & Flom LLP*, September 30, 2020

“CFTC Issues Compliance Program Guidance,” *Skadden, Arps, Slate, Meagher & Flom LLP*, September 10, 2020

“CFTC Updates LIBOR Transition Relief,” *Skadden, Arps, Slate, Meagher & Flom LLP*, September 2, 2020

Speeches

“Enforcement Developments,” *ABA Business Law Section, Derivatives and Futures Law Committee, Virtual Winter Meeting 2021*, January 28-29, 2021

“Schoolhouse Rock! APA/Agency Rulemaking Process,” *FIA Law and Compliance Conference*, October 7-9, 2020

“Key Supreme Court Cases From the 2019-2020 Term and a Look Ahead to the 2020-2021 Term,” *Skadden webinar*, September 23, 2020

“DOJ’s Foray into the CFTC’s Enforcement World: Spoofing, Commodities Fraud, Wire Fraud and Even RICO,” *Futures Industry Association Webinar*, June 11, 2020

Outside Counsel Panel, *State of the Industry Conference 2020*, Miami, January 28, 2020

Day Chair, *ABA Derivatives and Futures Law Committee Conference*, Naples, Florida, January 23-25, 2020

“In the Enforcement Spotlight: Manipulation and Misappropriated Information,” *41st Annual FIA Law and Compliance Conference*, Washington, D.C., May 8-10, 2019

“14th Annual Energy Conference,” *Skadden, Arps, Slate, Meagher & Flom LLP*, Washington, D.C., April 30, 2019

“CFTC and SEC Regulation of Digital Assets: Challenging Issues of Jurisdictional Overlap,” *Futures Industry Association Webinar*, April 25, 2019

“Manipulation Law Under the CEA,” *Futures Industry Association Webinar*, March 7, 2019

“Derivatives and Futures Law Committee Meeting 2019,” *ABA Business Law Section*, Naples, Florida, January 24-26, 2019

“Panel on SEC and CFTC Cryptocurrency Regulation,” *ABA Business Law Section Annual Meeting*, Austin, September 13-15, 2018

“Private Litigation Under the Commodity Exchange Act and Antitrust Laws,” *40th Annual FIA Law & Compliance Conference*, Washington, D.C., May 3, 2018