

Rachel Kaplan Reicher

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Derivatives



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Education

J.D., Boston University
School of Law, 2005

B.S., Tufts University, 2002
(*cum laude*)

Bar Admissions

California
District of Columbia

Selected Publications

"Significant Regulatory, Jurisdictional and Enforcement Challenges Ahead for CFTC" *Skadden's 2019 Insights*, January 17, 2019

"Skadden Discusses Proposed Updates to Banking Rules for Derivative-Contract Exposure," *The CLS Blue Sky Blog*, December 11, 2018

"Federal Banking Agencies Propose Updating Calculation of Derivative Contract Exposure," *Skadden, Arps, Slate, Meagher & Flom LLP*, December 5, 2018

Rachel Reicher advises a wide variety of clients on federal regulatory policy related to derivatives. Ms. Reicher's clients have included trade associations, investment managers, major corporations, financial and commercial end-users of derivatives (including pension organizations and energy companies) and swap dealers, as well as designated contract markets, swap execution facilities, a leading clearinghouse and a swap data repository. She has represented clients before the U.S. Commodity Futures Trading Commission (CFTC), the U.S. Securities and Exchange Commission, the U.S. Department of the Treasury, the Federal Reserve Board and Congress on a broad range of issues arising under Titles II, VII and VIII of the Dodd-Frank Act and the Commodity Exchange Act.

Ms. Reicher has represented registered entities in designing and developing the legal framework — and obtaining CFTC regulatory permission — to operate new types of infrastructure created by the Dodd-Frank Act (e.g. a swap execution facility and a swap data repository) and to offer new products for trading and clearing. She also has obtained numerous no-action letters of relief for clients.

Ms. Reicher advises market participants regarding a host of swap regulatory requirements, including reporting, recordkeeping, clearing and trade execution obligations. She assists end-user clients in assessing their eligibility for the commercial end-user exception to the Dodd-Frank swap clearing and trade execution mandates, and helps eligible end-users claim these exceptions (including with the development of swaps policies and board resolutions). Ms. Reicher also counsels clients on the many International Swaps and Derivatives Association (ISDA) protocols (and bilateral alternatives) available to address Dodd-Frank regulatory obligations.

She has represented major pension funds in connection with their use of swaps, futures and options markets to manage the risk of future price changes in stocks, interest rates and currencies. Those representations include:

- speaking for industry participants at meetings with Congress, Treasury and the CFTC to successfully remove language from financial reform draft legislation and regulations that would have precluded certain pension plans from using derivatives to hedge risk;
- drafting comment letters for pension funds to inform regulators of the potential impact of dozens of regulations proposed to implement the Dodd-Frank Act and to offer alternatives to mitigate anticipated adverse effects; and
- leading a team that successfully identified and negotiated the removal of all provisions in pension plans' derivatives documentation that could have adversely impacted the client upon a bankruptcy filing by the plans' parent.

Ms. Reicher has significant experience drafting and negotiating various ISDA master and customized agreements for swaps, futures, options, foreign exchange and other derivatives.

In connection with contemplated mergers and acquisitions, she manages and coordinates global legal diligence reviews to identify and analyze derivatives regulatory issues and the potential impact of contractual provisions in derivatives agreements.

She won Skadden's 2019 Counsel *Pro Bono* Award for leading global *pro bono* teams in analyzing high-profile, complex regulatory policy developments, and in creating advocacy documents that clients shared with Congress and regulators to highlight the illegalities and the adverse impacts of the policies and to preserve judicial challenges.

Ms. Reicher is a member of the board of directors of Kol Shalom in Rockville, Maryland.