

ROBERT A. SCHWARTZ

EXPERIENCE

MORGAN, LEWIS & BOCKIUS, Washington, DC

Partner, April 2025-present

Represent clients in regulatory matters before the Commodity Futures Trading Commission and National Futures Association, including registration and compliance; advise clients on regulation of futures commission merchants, introducing brokers, commodity pool operators, and commodity trading advisors; counsel clients in enforcement and litigation matters. Representative industries include fintech, agriculture, trading, and traditional finance.

U.S. COMMODITY FUTURES TRADING COMMISSION, Washington, DC

General Counsel, January 2022-January 2025

Principal Deputy General Counsel (detail), January 2025-April 2025

Acting General Counsel, February-March 2017; January 2021-January 2022

Deputy General Counsel (Litigation, Enforcement & Adjudication), July 2013-January 2021

Assistant General Counsel, Oct. 2011-July 2013

General Counsel/Acting General Counsel: Chief legal advisor to the Commission and director of the 60+ person Office of the General Counsel. Subjects included regulation of digital asset products; non-intermediated clearing; carbon-credit derivatives; conflicts of interest; event contracts; enforcement matters involving fraud in cryptocurrency and other markets; manipulation; spoofing; registration violations; whistleblower awards (including the largest in agency history, more than \$200 million); administrative law; labor and employment; appropriations; internal investigations; privacy and information management.

Litigation: As Deputy General Counsel for Litigation, Enforcement & Adjudication Branch, supervised between six and ten attorneys and two administrative staff; first chair or supervisor of all agency defensive, appellate, and bankruptcy litigation, amicus participation; matters include appeals in enforcement actions, defense of agency regulations and other actions in challenges under the Administrative Procedure Act, including implementation of swaps-market reforms under Title VII of the Dodd-Frank Wall Street Reform & Consumer Protection Act of 2010; commodity-broker bankruptcy litigation; principal advisor to the Commission on agency adjudications including review of disciplinary actions by self-regulatory organizations. As General Counsel, presented two additional appellate arguments. Representative cases:

- ***KalshiEx LLC v. CFTC, No. 24-5205 (D.C. Cir.)*** (argued personally September 19, 2024, (motion to stay) and January 17, 2025 (merits)) (concerning the listing of political event contracts; appeal withdrawn);
- ***In re Commodity Futures Trading Commission, 941 F.3d 869 (7th Cir. 2019)*** (granting a writ of mandamus to halt a testimonial evidentiary hearing on allegations of contempt against the agency's Chairman and two Commissioners);
- ***CFTC v. Monex Credit Corp., 931 F.3d 966 (9th Cir. 2019)*** (reversing district court's dismissal of antifraud enforcement action and affirming agency's authority to police cash commodity markets for fraud, and to regulate certain leveraged, margined, or financed commodity transactions) (argued personally);
- ***Securities Indus. & Fin. Mkts. Ass'n v. CFTC, 67 F. Supp. 3d 373 (D.D.C. 2014)*** (granting summary judgment in the agency's favor in all critical respects in an APA challenge to CFTC's power under Dodd-Frank to regulate cross-border swaps activities) (argued personally);
- ***DTCC Data Repository (U.S.) LLC v. CFTC, 25 F. Supp. 3d 9 (D.D.C. 2014)*** (motion to dismiss granted in part in a case concerning swap-data-repository regulation under Dodd-Frank; remaining claims dismissed voluntarily);
- ***Bloomberg L.P. v. CFTC, 949 F. Supp. 2d 91 (D.D.C. 2013)*** (dismissing complaint in an APA challenge to CFTC margin-liquidation rule under Dodd-Frank for derivatives clearing organizations) (argued personally);
- ***Investment Company Institute v. CFTC, 891 F. Supp. 2d 162 (D.D.C. 2012), aff'd, 720 F.3d 370 (D.C. Cir. 2013)*** (granting/affirming summary judgment and dismissal in successful defense against APA challenge to CFTC Dodd-Frank registration and data reporting rules for registered investment companies); and
- ***In re MF Global, Inc., No. 11-2790 (Bankr. S.D.N.Y.)*** (lead counsel representing the Commission in bankruptcy of major futures commission merchant and broker-dealer; argued two offshoot cases personally).

Enforcement: Advised the Division of Enforcement on cutting-edge issues, charging decisions, and issues arising in investigations; key advisor to the Commission on enforcement matters; for more than seven years as Deputy General Counsel, reviewed and signed-off on every enforcement action and settlement; prepped significant CFTC-staff witnesses

for trial and depositions in civil and criminal cases; twice served as a Rule 30(b)(6) witness; defended depositions; ensured that Enforcement's decision-making accorded with the CFTC's broader interests and activities; subjects included fraud, manipulation, spoofing, cryptocurrency and digital assets, leveraged retail commodities, and customer asset protection. Representative cases:

- *CFTC v. Bankman-Fried, Ellison, et al.* (fraud at FTX and Alameda Research);
- *CFTC v. McDonnell* (first court to hold that cryptocurrency is a "commodity" under the CEA);
- *CFTC v. Kraft, Inc.* (futures manipulation);
- *CFTC v. My Big Coin Pay* (cryptocurrency fraud);
- *CFTC v. Corzine* (customer asset protection);
- *In re Deutsche Bank AG* (LIBOR manipulation); and
- *CFTC v. Monex* (retail metals fraud).

ARNOLD & PORTER, LLP, Washington, DC

Associate (Securities Litigation & Enforcement), Oct. 2004-Oct. 2011

Summer Associate, May-July 2003

Practice focused on business litigation, director and officer liability actions, securities and financial fraud litigation, appellate litigation, derivative suits, M&A controversies, audit and accounting malpractice, government investigations and enforcement actions (SEC, FDIC, PCAOB), Foreign Sovereign Immunities Act. Representative matters:

- *SEC v. KPMG LLP*, No. 03-cv-0671 (S.D.N.Y.);
- *In re Adelphia Communications, Inc. Securities Litigation*, 1:03-md-01529 (S.D.N.Y.);
- *In re Motorola Securities Litigation*, No. 03-cv-00287 (N.D. Ill.);
- *In re Refco, Inc. Securities Litigation*, 05-cv-8626 (S.D.N.Y.);
- *United States v. Zacarias Moussaoui*, No. 06-4494 (4th Cir.);
- *Stoneridge Investment Partners, LLC v. Scientific Atlanta, Inc.*, No. 05-1974 (8th Cir.), 06-43 (U.S.);
- *DRFP L.L.C. d/b/a Skye Ventures v. The Bolivarian Republic of Venezuela*, No. 2:04-cv-00793 (S.D. Ohio), No. 09-3424 (6th Cir.); and
- *Astra USA, Inc. v. Santa Clara County*, No. 09-1273 (U.S.).

THE HONORABLE AMALYA L. KEARSE, U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT, New York, NY

Law Clerk, August 2003-July 2004

SULLIVAN & CROMWELL, New York, NY

Summer Associate, May-August 2002 (offer extended)

O'MELVENY & MYERS, New York, NY

Summer Associate, July-August 2001 (offer extended)

MASSACHUSETTS STATE SENATE, OFFICE OF SENATOR CYNTHIA STONE CREEM, Boston, MA

Legislative Aide, January 1999-July 2000

COMMITTEE TO ELECT PAUL DEMAKIS (MASSACHUSETTS STATE REPRESENTATIVE), Boston, MA

Campaign Manager, July-December 1998

EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY, J.D., *Magna Cum Laude*, May 2003

Honors: *New York University Law Review* (Staff Editor 2001-02; Notes Editor 2002-03);
Order of the Coif (2003);
Butler Scholar (top ten students based on grade point average – January 2002);
Pomeroy Scholar (top ten students based on grade point average – June 2001);
Fellow, Institute of Judicial Administration (Summer 2001); and
First Place - Fall 2000 1L Oral Advocacy Competition.

TUFTS UNIVERSITY, Medford, MA, B.A. in Political Science, May 1998

AWARDS

Chairman's Award for Staff Excellence, CFTC (2013, 2019 & 2020)

Rising Stars, Best Lawyers Under 40, Law360 (2015)

Honorable Mention, Chairman's Honorary Awards, CFTC (2012)

Burton Award for Distinguished Legal Writing, The Burton Foundation (2008)

Honorable Mention, Excellence in Conflict Resolution, CPR Institute for Dispute Resolution (2003)

BAR ADMISSIONS

Admitted to practice in the District of Columbia, Massachusetts (inactive), numerous federal courts.

PUBLICATIONS AND PRESENTATIONS

Panelist: *Global Sponsor Forum: Regulatory Round Up*, Morgan Lewis & Bockius (scheduled December 2025)

Panelist: *Perpetuals: Policy & Legal Considerations for U.S. Markets*, The Blockchain Association (December 2025)

Panelist: *The Road to Clarity: SEC and CFTC Oversight in the Digital Asset Economy*, Merkle Science (December 2025)

Panelist: *What's New at the CFTC and FERC?*, Futures Industry Association Commodities Conference (October 2025)

Fireside Chat: *Gamifying Futures*, Environmental Markets Association 29th Annual Meeting (September 2025)

LawFlash: Staff of CFTC and SEC Issue Joint Statement on Certain Crypto Asset Products (September 2025) (co-author)

LawFlash: U.S. Department of Justice: 'Well-Intentioned Innovators' Will Not be Prosecuted (September 2025) (co-author)

How Much Do the CFTC Enforcement-Related Advisories Change the Calculus to Self-Report or Cooperate in an Investigation?, Futures & Derivatives Law Report (July/August 2025) (co-author)

LawFlash: Bipartisan Majorities in Two House Committees Vote to Advance the Digital Asset Market Clarity Act of 2025 (June 2025) (co-author)

Panelist: *Derivatives*, 2025 Advanced Topics in Private Fund Practices Conference: Manager and Investor Perspectives, Morgan Lewis Seminars (June 2025)

Panelist: *CFTC & Derivatives Developments*, Morgan Lewis 18th Annual Advanced Topics in Hedge Fund Practices Conference (June 2025)

Panelist: *What to Expect from the CFTC*, Morgan Lewis 18th Annual Advanced Topics in Hedge Fund Practices Conference (June 2025)

LawFlash: CFTC Staff Issue Advisory on Criteria for Referrals to the Division of Enforcement (Apr. 2025) (co-author)

Panelist: *Review of the Supreme Court's Recent Administrative Law Decisions*, Midwest Interagency Group (November 2024)

Panelist: *Navigating a Post-Chevron World*, Ad Idem (August 2024)

Panelist: *Perspectives on the Post-Chevron Landscape: A Focus on the SEC and CFTC*, The Federalist Society (August 2024)

Panelist: *Effect of the Administrative State on Financial Regulation*, Futures Industry Association Law & Compliance Division Conference (April 2024)

Moderator: *Uncovering, Investigating, and Prosecuting Illegal Conduct in Cash Commodity Markets*, 2024 Agricultural Commodity Futures Conference, CFTC & Kansas State University (April 2024)

Panelist: *Administrative Law Challenges*, ABA Derivatives and Futures Law Committee Winter Meeting 2024 (January 2024)

Panelist: *Recent Enforcement Actions in the Digital Asset Space*, DLA Piper Webcast (October 2023)

Panelist: *Investment Contracts, U.S. Persons, and Other Hot Legal and Regulatory Developments Involving Crypto*, 2023 Crypto with Katten Annual Symposium (September 2023)

Panelist: *The State of the Administrative State*, Chicago Bar Association, Futures and Derivatives Law Committee (September 2023)

Panelist: *Ethics*, ABA Derivatives and Futures Law Committee Winter Meeting 2023 (February 2023)

Panelist: *Securities General Counsels Panel*, Financial Markets Association 2022 Legal & Legislative Conference (November 2022)

Fireside Chat: *Commodities as Digital Assets: A Discussion with CFTC General Counsel Rob Schwartz*, DLA Piper (October 2022)

Panelist: *Defi - Does “Decentralized” Finance Mean De-Regulated Finance?*, Futures Industry Association Law & Compliance Division Conference (April 2022)

Fireside Chat: *Regulatory Perspectives on Crypto*, Pantera Capital (March 2022)

Panelist: *Looking Forward*, ABA Derivatives and Futures Law Committee Virtual Winter Meeting 2022 (January 2022)

Panelist: *The Standoff Between Regulators and Courts: A Progressive Administration and a Conservative Judiciary*, Steptoe & Johnson Third Annual Regulatory Symposium (December 2021)

Panelist: *Securities General Counsels Panel*, Financial Markets Association 2021 Legal & Legislative Conference (October 2021)

Panelist: *Fintech and Advanced Crypto Issues for Non-Techies (and Techies too)*, Futures Industry Association Law & Compliance Division Conference (October 2020)

Conference Chair: *Strategic & Operational Challenges within Volcker Rule Compliance*, Global Financial Market Intelligence (March 2015)

Panelist: *General Counsels Panel*, Financial Markets Association 2013 Treasury & Capital Markets Legal & Legislative Issues Conference (October 2013)

Panelist: *The Business Community Takes on the SEC: Who Will Win the Battle over Dodd-Frank Disclosure Regulations?* ABA Criminal Justice Section/White Collar Crime Committee (December 2012)

What Does It Take to Certify a Securities Fraud Class? Class Certification Requirements in 10b-5 Cases, ABA Section of Litigation, 7 Professional Liability Litigation 18 (co-author) (Spring/Summer 2011)

The Second Circuit Rejects Loss Causation Based on Innuendo & Rhetoric, ABA Section of Litigation, Professional Liability Committee E-Newsletter (co-author) (October 2010)

Efficient Markets, Effective Adjudication: Loss Causation & Class Certification in Financial Fraud & Subprime Litigation, BNA Securities Regulations & Law Report (co-author) (June 1, 2009)

Evaluating an Auditor’s Exercise of Professional Judgment: Did the SEC Advisory Committee Get It Right?, ALI-ABA Course of Study Materials: Accountants’ Liability (co-author) (May 2008)

ALI-ABA Webcast: *Securities Fraud Actions Against Auditors: Preventing Unwarranted Inferences from Five Common Types of Evidence* (June 2007)

Five Common Evidentiary Issues in Securities Fraud Actions Against Auditors & Accounting Firms, The Practical Litigator (co-author) (March 2007)

The Nature of Consent in the American Republic: Substance or Procedure? The Elections Clause and Single Member Congressional Districts, 38 Univ. of San Fran. L. Rev. 467 (2004)

Note: Can Arbitration Do More for Consumers? The TILA Class Action Reconsidered, 78 N.Y.U. L. Rev. 809 (2003)