



Richard F. Kerr

Partner

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OVERVIEW

Richard Kerr is a partner at the firm where he is a member of the Asset Management and Investment Funds practice group. Richard is a co-lead for both the firm's Financial Services industry group and Digital Assets, Blockchain Technology and Cryptocurrencies industry group. Richard focuses his practice on counseling registered investment companies (including mutual funds and exchange traded funds), investment advisers, broker-dealers, and other financial institutions in connection with corporate and regulatory matters affecting their operations, particularly relating to SEC and FINRA regulation.

Richard's practice includes providing counsel to financial institutions on a broad array of corporate, regulatory, transactional, and operational matters, including: formation, registration, and ongoing operations of registered investment companies (including mutual funds and exchange traded funds), bank collective investment trusts, investment advisers and broker-dealers; reorganization transactions; mergers and acquisitions; negotiation of service provider agreements; public and private offerings of securities; holding company formations; and new product offerings. Additionally, Richard frequently advises ETFs, investment advisers, broker-dealers, and other financial institutions regarding the US federal securities law implications of their cryptocurrency, digital assets, and blockchain related activities.

Richard has extensive experience representing financial institutions before federal and state securities and banking regulators, and self-regulatory organizations (including FINRA and NSCC) in connection with such matters. Richard works with financial institutions with respect to the development of their internal compliance and risk management policies and procedures, including the development of procedures required by SEC regulation and FINRA rules. Richard frequently advises investment advisers, broker-dealers, mutual funds and exchange traded funds with respect to their marketing and distribution activities.

Richard also frequently counsels financial institutions on anti-money laundering and OFAC sanctions program matters, including the development of tailored anti-money laundering and sanctions monitoring compliance solutions (including policies, procedures, and other items) for mutual funds, exchange traded funds, investment advisers, broker-dealers, and other financial institution clients.

Richard also has significant boardroom experience, including providing counsel to the independent directors of mutual funds and exchange traded funds clients, and the Boards of Directors of banking clients.

PROFESSIONAL BACKGROUND

Prior to joining the firm, Richard was counsel in the Boston office of an international law firm for over 10 years, and prior to that was a senior compliance and risk management professional for a major Boston-based financial institution.

ACHIEVEMENTS

- “Next Generation Lawyer,” *The Legal 500*, 2017

PROFESSIONAL / CIVIC ACTIVITIES

- Boston Bar Association
- American Bar Association
- Financial Markets Association

SPEAKING ENGAGEMENTS

Mr. Kerr speaks regularly at industry events focused on investment adviser, broker-dealer and fund regulatory and compliance issues, including as a panelist at the following:

- K&L Gates' ETF Think Tank (2017–2023), Planning Committee, panelist and moderator.
- Spring Regulatory Update, 1 June 2021, Panelist.
- K&L Gates' Boston Investment Management Conference (2015–2023), Panelist.
- “The ETF Changing Legal & Compliance Landscape,” Fall 2019 ETP Forum (21 November 2019), Panelist.
- “Financial Professional Standards of Conduct,” Quarterly NEBDIAA Meeting (28 October 2019), Panelist.
- “Drafting Reg BI Policies and Procedures for Broker-Dealers,” NRS Fall Compliance Conference (16 October 2019), Panelist.
- “Unpacking and Implementing Reg BI and Form CRS,” NRS Fall Compliance Conference (17 October 2019), Panelist.
- “SEC Rules and Interpretations Related to Fiduciary Duty and Standards of Conduct” K&L Gates Webinar (26 September 2019), Panelist.
- “Introduction to the Advisers Act,” NRS Boston Compliance Composium (6 August 2019), Panelist.
- “Marketing and Social Media for Broker-Dealers,” NRS Spring Compliance Seminar (30 April 2019), Panelist.
- “Cryptocurrencies and Blockchain from a Compliance Perspective,” NRS Spring Compliance Seminar (29 April 2019), Panelist.

- “K&L Gates/ACA Mutual Fund Distribution Roundtable” (9 April 2019), Panelist.
- “SEC Examination and Enforcement Update for Investment Advisers,” NRS Boston Investment Adviser Compliance Symposium (16 August 2018), Panelist.
- “K&L Gates/ACA Mutual Fund Distribution Roundtable” (17 May 2018), Panelist.
- “AML Best Practices for Investment Advisers and Broker-Dealers,” NRS Webinar (8 May 2018), Panelist.
- “Best Practices for Your Firm's Vendor Management,” NRS Spring Compliance Seminar (26 April 2018), Panelist.
- “Cryptocurrencies: How will cryptocurrencies impact your firm? Are you ready?,” NRS Spring Compliance Seminar (26 April 2018), Panelist.
- “Investment Adviser Performance and Advertising,” NRS Webinar (30 January 2018), Panelist.
- “How Advisers Can Avoid Common Deficiencies Under the Advertising Rule,” Hedge Fund Law Report Webinar, (13 November 2017), Panelist. • “Advertising and Social Media,” NRS Fall Compliance Conference 2017 (24 October 2017), Panelist.
- “What's Hot on the IA Rulemaking Front,” IA Watch Commitment to Compliance Conference (18 September 2017), Panelist.
- “Third-Party Vendor Management for Compliance Professionals,” Investment Adviser Association Webinar (13 July 2017), Panelist.
- “Evolving Governance Roles,” Fund Directors Boston Summit 2017 (8 June 2017), Panelist.
- “K&L Gates/ACA Mutual Fund Distribution Roundtable” (9 May 2017), Panelist.
- “Managing Today's Advertising and Social Media Regulatory Environment,” NRS Spring Compliance Conference (3 May 2017), Panelist.
- “Advertising and Marketing: Insights to Avoid Red Flags,” 16th Annual IA Compliance Fall Conference 2016 (26 September 2016), Panelist.
- “Mastering Compliant Performance Advertising & Marketing,” IA Watch Marketing and Advertising Forum for Investment Advisers (22 August 2016), Panelist.
- “Leveraging a Robust Social Media Program that Passes Regulatory Muster,” IA Watch Marketing and Advertising Forum for Investment Advisers (22 August 2016), Panelist.
- “Third-Party Vendor Management for Compliance Professionals,” Investment Adviser Association Webinar (11 August 2016), Panelist.
- “AML Best Practices for Investment Advisers and Broker-Dealers,” Webinar (30 June 2016), Panelist.
- “Understanding Fiduciary Duties and A Sweep of Anti-Fraud Provisions of the Advisers Act,” NRS Boston Investment Adviser Compliance Symposium (June 2016), Panelist.

- “Blindspots in Operational Risk,” National Society of Compliance Professionals, Web seminar, (11 February 2016), Panelist.
- “Advertising & Marketing: Best Practices to Tackle this Perennial Challenge and Avoid Compliance Missteps,” IA Watch, Webinar (26 January 2016), Panelist.
- The DCIO Best Practices Summit, THE SEC MONEY MARKET REFORMS – TO WHAT EXTENT WILL THEY IMPACT THE DC MARKET?, 29 January 2016.
- IA Watch Webinar, Advertising & Marketing: Best Practices to Tackle this Perennial Challenge And Avoid Compliance Missteps, 26 January 2016.
- K&L Gates 2015 Investment Management Conference, “Broker-Dealer Regulatory Update,” Boston, MA, 8 October 2015.
- K&L Gates 2015 Investment Management Conference, “Proposed SEC Liquidity Management Rules,” Boston, MA, 8 October 2015.
- How to Facilitate Communications with the Public, National Society of Compliance Professionals, 2015 South Regional Conference, Panelist.
- KYC and Suitability, Financial Markets Association, 2013 Securities Compliance Seminar, Moderator.
- Risk 2013 & Beyond – What You Must Know, Financial Markets Association, 2013 Securities Compliance Seminar, Moderator.

EDUCATION

- J.D., Suffolk University Law School, 2004 (*cum laude*)
- B.A., Boston University, 1995

ADMISSIONS

- Bar of Massachusetts

THOUGHT LEADERSHIP POWERED BY HUB

- 20 March 2024, NAPFM, AIMA, and MFA File Complaint Against SEC's New Dealer Rule
- 29 February 2024, SEC Expands "Dealer" Definition to Capture Liquidity Providers
- 16 February 2024, FinCEN Proposes AML Requirements on Registered Investment Advisers (including Exempt Reporting Advisers)
- 7 February 2024, SEC Expands Definition of Dealers and Government Securities Dealers
- 25 January 2024, FINRA's Findings: Member Firms Get Failing Grade in Crypto Communications

- 18 January 2024, US Asset Management Regulatory Year in Review 2023
- 11 January 2024, 2024: The Year of the Spot Bitcoin ETP
- 20 November 2023, Stay on Target: FINRA Proposes Rules Permitting Presentation of Performance Projections and Targets
- 2 November 2023, Asset Management and Investment Funds Fall Conferences - Washington, D.C.
- 29 August 2023, Spot Bitcoin ETFs—Coming to an Exchange Near You (Maybe)!
- 28 August 2023, Brokers Beware—The Massachusetts Fiduciary Rule is Here to Stay
- 25 August 2023, First SEC Enforcement Action Arising Out of the New Marketing Rule Targets FinTech Investment Advisor Titan Global Management
- 16 August 2023, A New Frontier: The SEC Addresses Artificial Intelligence (and a Whole Lot More)
- 27 July 2023, United States: The SEC Proposes Rules for the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers
- 29 March 2023, SEC Proposes Custody Rule Overhaul With Broad Implications for Investment Advisers, Custodians, and Independent Public Accounting Firms
- November 2022, Decoding Digital Assets: Blockchain, Crypto, and NFTs Insight Series - Part I
- 23 August 2022, SEC v. Wahi: An Enforcement Action Impacting the Broader Crypto/Digital Assets and Investment Management Industries
- 2 August 2022, United States: SEC vs. Wahi: An Insider Trading Action with Surprising Impacts on the Investment Management Industry
- 5 July 2022, United States: Grayscale Appeals to D.C. Circuit on SEC Denial of Bitcoin ETP
- 1 July 2022, SEC Solicits Comments on Whether Index Providers, Model Portfolio Providers, and Pricing Services Are Investment Advisers: Seeking a Problem for a "Solution"
- 21 April 2022, FINRA Considers Limiting Self-Directed Investors' Ability to Invest in Certain Exchange-Traded Funds, Mutual Funds and Closed-End Funds
- 17 March 2022, ETF Handbook, Third Edition
- 9 February 2022, Reporting of U.S. Ownership on Tic Form SHC Due by March
- 17 September 2021, Unintended Consequences of Wyden's Proposal to Change Tax Treatment for Mutual Funds and ETFs
- 1 April 2021, Converting Into an ETF
- 20 January 2021, The SEC's Modernized Marketing Rule for Investment Advisers

- 20 November 2020, SEC Enforcement Action Cites Bank for Operating Collective Investment Funds as Unregistered Investment Companies: Key Takeaways for Banks and Advisers
- 27 October 2020, SEC Proposes Exemption from Broker Dealer Registration for Finders in Private Placements
- 13 October 2020, Finders Keepers? SEC Proposes Exemption from Broker-Dealer Registration for Finders in Private Placements, but Questions Remain
- 23 April 2020, OCIE Issues Guidance for Examinations of Regulation Best Interest and Form CRS
- 4 March 2020, Massachusetts Finalizes State Fiduciary Standard amid Regulation Best Interest
- 3 February 2020, ETF Handbook, Second Edition
- 29 October 2019, Regulation Best Interest and Placement Agents
- September 2019, SEC Rules and Interpretations Related to Fiduciary Duty and Standards of Conduct
- 31 July 2019, Links to Regulatory Materials for Financial Professional Standards
- 30 July 2019, Form CRS: Practical Considerations
- 15 July 2019, Now Effective: SEC Interpretations Relating to the Fiduciary Duty of Investment Advisers and the “Solely Incidental” Exclusion
- 10 July 2019, SEC Outlines Parameters of Permissible Broker-Dealer Advice to Customers
- 25 June 2019, SEC Publishes a Roadmap to Navigating the Investment Adviser Fiduciary Duty
- 19 June 2019, Triggering Regulation Best Interest: What Are “Retail Customers” and “Recommendations”
- 19 June 2019, SEC Adopts A New Best Interest Standard of Conduct
- 11 June 2019, Questions about Financial Professional Standards - Fiduciary Duty vs. Best Interest?
- 6 June 2019, SEC Adopts Broker-Dealer Best Interest Standard, Disclosure Duties for Broker-Dealers and Investment Advisers, and Publishes Key Interpretations
- April 2019, Mutual Fund Distribution Roundtable
- 28 February 2019, FINRA Relaxes Restrictions on Pre-Inception Performance Data
- 3 October 2018, A Face-Lift for GIPS: CFA Institute Publishes Proposed Revisions to the GIPS Standards in the GIPS 2020 Exposure Draft
- 23 May 2018, Calm Before the Storm: Investment Advisers Face Changes to the Advertising Rule, GIPS, and Performance Portability Standards
- May 2018, Mutual Fund Distribution Roundtable
- 24 April 2018, Fiduciary Standard Reform - The SEC Enters the Ring

- 15 April 2018, Fiduciary Rule Reform – SEC Developments
- 8 February 2018, Past, Present and Future of the DOL Fiduciary Rule
- 13 June 2017, FINRA Requests Comment on Rules Governing Outside Business Activities and Private Securities Transactions
- 7 June 2017, CFA Institute Commences GIPS 20/20 Initiative
- 8 May 2017, Social Media Update: FINRA Releases Additional Guidance on Social Networking Websites and Business Communications
- 9 March 2017, FINRA Requests Comment on Proposed Amendments to Rules Governing Communications with the Public
- 23 February 2017, Reporting of U.S. Ownership on TIC Form SHC Due by March
- 17 August 2016, Circuit Court Affirms SEC's Expanded Views on Backtested Performance
- 5 January 2016, Recent SEC Actions Highlight Adviser Responsibilities With Respect to Performance Advertising

OTHER PUBLICATIONS

- "FINRA Proposes Rules Permitting Presentation of Performance Projections and Targets," *Journal of Federal Agency Action*, May-June 2024
- "SEC v. Wahi: An Enforcement Action Impacting the Broader Crypto/Digital Assets and Investment Management Industries," *The Investment Lawyer*, November 2022
- "SEC Solicits Comments on Whether Index Providers, Model Portfolio Providers, and Pricing Services Are Investment Advisors: Seeking a Problem for a 'Solution,'" *The Investment Lawyer*; October 2022
- "Compliance Challenges in the Age of Crypto," Investment Adviser Association Newsletter, October 2022
- "Managing Influence: Social Media for Investment Advisers under the SEC's New Marketing Rule," *The Investment Lawyer*, March 2022
- "The Effect of the GIPS 2020 Exposure Draft Proposals on Managers of Exchange Traded Funds," *Big Tips for ETF Issuers*, Arro Financial Communications, February 2020
- "FINRA Relaxes Restrictions on Pre-Inception Performance Data," *Journal of Investment Compliance*, August 2019
- "Updating Interpretive Guidance for a Rapidly Evolving Mutual Fund Marketplace," *Traders Magazine*, 22 May 2019
- "The Impact of the GIPS 2020 Exposure Draft Proposals on Managers of Exchange-Traded Funds," *Arro Communications "Big Tips for New Issuers 2019"*

- “How to Minimize Errors in Investment Management Marketing Material,” Investment Adviser Association Newsletter, (January 2016)
- “Director of SEC's Division of Investment Management Discusses Alternative Mutual Funds” *Journal of Investment Compliance*, Vol. 15, Issue 4 (2014)
- “FINRA Fines Broker-Dealer for Failing to Apply Class A Sales Charge Waivers to Certain Eligible Customers on Mutual Fund Platform” *Journal of Investment Compliance*, Vol. 15, Issue 4 (2014)
- “Federal Bank Regulatory Agencies Issue Long Awaited Anti-Money Laundering Examination Manual” *Banking Law Journal*, Vol. 122, No. 9 (October 2005)

NEWS & EVENTS

- 28 November 2023 and 5 December 2023, 2023 ETF Think Tanks
- 9 and 16 November 2022, 2022 ETF Think Tank
- 3 November 2022, 2022 K&L Gates Asset Management and Investment Funds Conference - Boston
- 2 November 2022, 2022 K&L Gates Asset Management and Investment Funds Conference - Washington, D.C.
- 6 May 2022, Current Challenges in the Use of Social Media and Electronic Communications, Hosted by the Financial Markets Association
- 5 May 2022, Digital Assets Regulation: Where We Are Today, Hosted by Financial Markets Association
- 8 - 9 December 2021, 2021 ETF Think Tank
- 24 February 2021, New England Broker Dealer Investment Adviser Association Quarterly Meeting
- 19 June 2017, K&L Gates Earns Tier 1 M&A, Six New Practice Rankings in 2017 The Legal 500 U.S. Guide
- 23 December 2015, K&L Gates Further Expands Investment Management Practice with Washington, D.C., Partner Addition
- 5 November 2015, K&L Gates Further Strengthens Investment Management Practice with New York Partner Addition
- 23 September 2015, K&L Gates Adds to Investment Management Practice with Boston Partner Hire

MEDIA MENTIONS

- “SEC Requests Comments on Whether Certain Information Providers Function as Investment Advisers,” *MFDF*, 26 July 2022
- Quoted, Comments not likely to sway SEC to approve Bitcoin ETF, *InvestmentNews.com*, 8 February 2022

AREAS OF FOCUS

- Asset Management and Investment Funds
- Anti-Money Laundering (AML)
- Broker-Dealers
- Exchange-Traded Products
- Global Distribution
- International Trade: CFIUS, Sanctions, and Export Controls
- Investment Advisers
- Investment Funds
- Nonprofit Organizations
- Portfolio Management, Trading, and Compliance
- U.S. Registered Investment Companies

INDUSTRIES

- Digital Assets, Blockchain Technology and Cryptocurrencies
- Financial Services
- Fintech
- Technology

EMERGING ISSUES

- Social Media Law