K&L GATES

Asset Management Regulatory Year in Review 2024

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OVERVIEW

OVERVIEW

2024 was a year of meaningful regulatory change for asset managers globally. The regulatory activity was wide ranging and without a particular unifying theme. In fact, the wide, and in cases diverging focuses of key global regulators requires asset managers to closely review what has happened, and potentially more importantly, keep tabs on what is likely to happen going forward. A brief summary of select regulatory developments by region is provided below, followed by a more detailed overview.

UNITED STATES

Against the backdrop of a presidential election, financial services regulators sought to adopt several significant rulemakings. The Securities and Exchange Commission (SEC) continued work to finalize its proposed new and amended rules, including:

- Amendments to mutual fund liquidity regulations requiring significant additional disclosure and making targeted changes to the substantive requirements.
- Amendments to Regulation S-P intended to enhance privacy-related protections and obligations.
- Amendments to narrow the scope of the "Internet Adviser Exemption" by prohibiting any noninternet clients.
- Working with the Commodity Futures Trading Commission (CFTC) amendments to Form PF requiring increased private fund disclosure.

The SEC also adopted a number of significant rulemakings that were halted or invalidated. First, the SEC finalized its climate-related risk disclosure rules, which would have required public issuers to disclose key climate risk information, including greenhouse gas emissions. These rules were extremely controversial, and, in fact, were subject to legal challenges on the same day they were adopted. The SEC voluntarily stayed the effectiveness of these rules, and, under the new administration, they are unlikely to come into effect.

The SEC was dealt a number of losses in court in 2024. Most notably, the private fund adviser rules adopted in 2023 were unanimously vacated by the Fifth Circuit in June 2024.

The SEC also attempted to amend the definition of "dealer" and "government securities dealer" under the Securities Exchange Act of 1934, as amended (the Exchange Act), to expand its scope to include certain market participants who acted as "de facto market makers." This rulemaking was also challenged and ultimately vacated.

The courts also dealt a blow to the SEC's flexibility with respect to bringing enforcement actions. In *SEC vs. Jarkesy*, the Supreme Court found that the Seventh Amendment to the US Constitution entitles defendants to a jury trial when the SEC seeks civil penalties for securities fraud. This finding limits the SEC's ability to utilize its own administrative courts for these cases.

2024 was also a busy year for the regulation of retirement plans under the Employee Retirement Income Security Act of 1974, as amended (ERISA). First, the United States Department of Labor (DOL) adopted amendments to the qualified plan asset manager (QPAM) that increased the assets under management requirement and imposed a new notification requirement. 2024 also saw continued drama relating to the DOL fiduciary rule, where courts implemented a stay of amendments to the definition of a financial professional acting as a fiduciary under ERISA and the Internal Revenue Code and prohibited transaction exemptions (PTEs).

Other regulators who do not traditionally focus on asset management also proposed or adopted regulations impacting the industry. First, the Federal Deposit Insurance Corporation (the FDIC) proposed an amendment to their regulations addressing changes in bank control aimed to address potential risks posed by an increasing concentration of ownership of banks by large asset managers.

The US Treasury also adopted new regulations that impact investment managers who invest in issuers located in the People's Republic of China. Specifically, the new regulation imposed a notification requirement for certain transactions and prohibited others involving covered technology sectors in China or with certain Chinese owned or controlled enterprises.

The “anti-ESG” movement continued in full force, with a number of investigations and inquiries from US states and the US House of Representatives; however, “anti-ESG” regulation and legislation at the state level was dealt a blow when a federal court sided with the Securities Industry and Financial Markets Association and ruled that substantive regulation of registered investment advisers and broker-dealers was preempted by federal law.

Cryptocurrency

Although the SEC did not propose significant new rules or issue new guidance with respect to cryptocurrency, the SEC remained active in enforcement and litigation, continuing its stance that many cryptocurrencies are securities and pursuing legal action against exchanges and projects for alleged unregistered securities offerings. Beyond enforcement, the SEC's approval of the listing and registration of spot Bitcoin and Ether exchange-traded products (ETPs) (following a court decision vacating an SEC decision to disapprove the listing and trading of a cryptocurrency ETP) marked a major shift in providing mainstream investors with easier access to Bitcoin and Ether exposure through traditional investment vehicles.

Environmental, Social, and Governance (ESG)

2024 was also a significant year for ESG in asset management in the United States, with a significant degree of “anti-ESG” pushback, continuing the trend from 2023. This pushback took the form of state legislation, investigations, and a number of lawsuits. The activity generally focused on emphasizing the primacy of “pecuniary” concerns in the investment decision process and was associated with proxy voting or antitrust considerations arising from membership in ESG-related initiatives. The US Congress also conducted their own inquiries into the ESG activities, with investigations from the House Judiciary Committee.

Perhaps in response to this legislative and regulatory attention, asset managers in the United States pulled back on ESG products, with fewer ESG product launches. In addition, several high-profile asset managers withdrew from the key ESG-related initiatives Climate Action 100+ and Net Zero Asset Managers Initiative. Information on global developments can be found in our Global Survey of ESG Regulations for Asset Managers.

GLOBAL DEVELOPMENTS

Asia

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Reflecting on the regulations adopted in Asia in 2024, many governments have either implemented or are planning to enforce laws related to sustainability and impact investments.

- Hong Kong: Published a voluntary code of conduct for ESG ratings and data providers.

- Japan: Adopted several principles, including basic guidelines on impact investments and asset owner principles.
- Singapore: Climate reporting will be mandatory from FY 2025 for business trusts, investment funds (excluding exchange traded funds (ETFs)), and real estate investment trusts (REITs).

In Japan, the supervisory guidelines were revised to enhance asset managers' fiduciary responsibilities, including additional requirements for conflicts of interest management for real estate funds, which involve enhanced due diligence processes, service provider management, and recordkeeping requirements.

In Singapore, 2024 saw the introduction of a capital gains tax on certain foreign asset sales and disposals enacted under a new Section 10L of the Income Tax Act 1947.

Australia

Some significant themes emerge from an examination of the changes made to Australia's regulatory environment in the asset management space during 2024. A number of consequential regulatory changes came to fruition in connection with sustainable investment, and regulators have stepped up their engagement with asset managers and superannuation fund trustees in relation to illiquid and private assets. In addition, there were significant reforms announced in the digital asset space and in respect of digital payments.

The Australian Securities and Investment Commission (ASIC) also raised concerns over artificial intelligence (AI) adoption in financial services, urging more robust governance and compliance frameworks, particularly by Australian Financial Service Licence (AFSL) holders. Finally, the long-anticipated Anti-Money Laundering Counter-Terrorism Financing Amendment Act 2024 was passed through parliament, extending coverage for the first time to “tranche-two” entities, such as lawyers and accountants.

Middle East

Some of the significant developments in 2024 related to the continued impact of regulation from the prior year. Specifically, in 2023, the United Arab Emirates' (UAE) Ministry of Human Resources and Emiratisation (MHRE) introduced the Savings Scheme to allow employers to contribute a percentage of an employee's salary into licensed Savings Scheme Funds, enabling employees to invest and receive returns upon termination. This initiative aimed to protect employees against financial risks while fostering economic growth. To qualify, foreign asset managers must meet specific requirements, including forming Shariah-compliant funds and obtaining regulatory approvals.

In addition, in September 2024, Qatar announced new regulations on digital assets aimed at developing a financial and capital market that sets the region's standard in innovation, efficiency, and investor protection. Finally, the Qatar Investment Authority (QIA) launched two initiatives in 2024 to facilitate growth in Qatar's emerging asset management environment—the Active Asset Management Initiative and an initiative targeted toward fund-of-funds structures.

United Kingdom

Regulatory activity was not limited to the United States. In the United Kingdom (UK), several notable regulatory requirements came into effect:

- Sustainability disclosure requirements, which set forth antigreenwashing rules, introduce optional sustainability labels for UK funds that meet relevant requirements and mandate public disclosure on ESG matters for funds using sustainability labels or ESG terms in their names or marketing or both;

- New rules addressing payments for research that give firms managing separate accounts the option to bundle research payments with execution payments subject to compliance with various requirements. A consultation is underway to extend this to fund managers;
- The overseas funds regime (OFR), which allows EU Undertakings for Collective Investment in Transferable Securities (UCITS) funds that have been recognized for this purpose by the UK's Financial Conduct Authority to be marketed to retail investors in the UK (and will eventually completely displace the Temporary Marketing Permissions Regime (TMPR)); and
- Changes to derivative reporting under the UK European Market Infrastructure Regulation (EMIR).

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The UK also sought consultation on the regulation of ESG rating providers, which is expected in 2025.

LOOKING AHEAD

Included in this publication are more detailed discussions on certain of these developments. While there is no way of knowing what 2025 will bring given the global regulatory change, especially in the United States, it promises to be a busy year for asset managers—with new regulatory requirements, but also new opportunities

AMERICAS

AMERICAS

US SUMMARIES

Checked Swing—SEC Does Not Adopt "Swing Pricing" or a "Hard Close" for Now, but Only Provides Liquidity Guidance and Amendments to Forms N-PORT and N-CEN

The SEC has adopted amendments to reporting forms for registered investment companies. Funds will now be required to file monthly reports of their portfolio holdings and other data on Form N-PORT within 30 days after month's end, with this data becoming publicly available after a 60-day delay. Additionally, Form N-CEN will be amended to require open-end funds with liquidity risk management programs to provide information about third-party service providers used to comply with Rule 22e-4 (the Liquidity Rule) under the Investment Company Act of 1940, as amended.

While the SEC provided guidance on liquidity risk management programs, it did not adopt its controversial proposals requiring open-end funds to use "swing pricing" and implement a "hard close" for trading fund shares. These, along with amendments to the Liquidity Rule, are still on the SEC's agenda for spring 2025. The amendments to Forms N-PORT and N-CEN will increase operational and cost burdens on funds due to the accelerated reporting schedule. However, the SEC believes these changes will enhance transparency and provide more timely information for oversight and risk assessment.

The amendments to Form N-PORT increase the reporting frequency from quarterly to monthly, with filings due within 30 days of month-end and public availability after 60 days. Nonpublic information, such as liquidity classifications, will remain nonpublic. The Form N-CEN amendments require funds to identify and provide information about third-party service providers that such funds use to fulfill the requirements of the Liquidity Rule, including their name, address, affiliation, asset classes handled, and hiring and termination status.

The SEC also emphasized the importance of frequent liquidity classification reviews, clarified the definition of "cash" as US dollars, and advised on highly liquid investment minimums. The amendments become effective 17 November 2025, with smaller entities (less than US$1 billion in net assets) having until 18 May 2026 to comply with Form N-PORT changes. Funds and their boards should prepare operationally for the new reporting requirements, review and update policies and procedures, and continue monitoring their liquidity risk management programs.

SEC Finalizes Amendments to Regulation S-P

On 16 May 2024, the SEC adopted amendments to Regulation S-P, marking the first substantial changes since its 2000 inception. These amendments focus on enhancing privacy-related protections and obligations, without altering the core privacy policy provisions. Key changes include mandating incident response programs, expanding the scope to all transfer agents, broadening covered information, imposing recordkeeping requirements, and codifying an exception to the annual privacy notice delivery. The amendments introduce an incident response program requiring covered institutions to adopt policies and procedures for unauthorized access to customer information. This includes assessing incidents, containing breaches, and notifying affected individuals of sensitive information compromise. The notification requirement applies to sensitive customer information, defined as data whose compromise could create a reasonably likely risk of substantial harm, such as Social Security numbers, driver's license numbers, and biometric records. Notification must be provided within 30 days of discovery unless a reasonable investigation determines no likely harm. The

amendments broaden the scope of the safeguards and disposal rules to cover customer information of other financial institutions made available to the covered institution. They also extend both rules to all transfer agents, regardless of SEC registration. Recordkeeping requirements mandate maintaining documentation of compliance with the safeguards and disposal rules for specified periods. Finally, the amendments codify an exception to the annual privacy notice delivery, aligning with the FAST Act, if specific conditions are met. Covered institutions that are "large entities" are required to comply with the amendments no later than 3 December 2025. All other covered institutions will have until 3 June 2026 to comply with the amendments.

The SEC Limits the Internet Adviser Exemption

On 27 March 2024, the SEC adopted amendments to Rule 203A-2(e), known as the "Internet Adviser Exemption," which allows investment advisers to register with the SEC even if they do not meet typical asset management requirements. The amendments narrow this exemption by removing the exception for a small number of noninternet clients, requiring a constantly operational interactive website, and limiting the exemption to advisers providing only digital investment advisory services generated by software. These changes aim to conserve SEC resources and address concerns about advisers improperly claiming the exemption. The amendments also clarify that simply interacting with clients online is not enough; the advice itself must be digitally generated.

The amendments eliminate the previous allowance for fewer than 15 noninternet clients, requiring all client interactions to be exclusively through an operational interactive website. The term "operational interactive website" now includes mobile applications and similar digital platforms providing ongoing digital investment advisory services to multiple clients. This change emphasizes continuous availability for advice, except for brief technical issues. "Digital investment advisory services" are defined as advice generated by the website's software based on client-provided information. This clarifies that human-directed advice, even if delivered electronically, does not qualify for the exemption.

Form ADV will be amended to require advisers using the Internet Adviser Exemption to confirm they have an operational interactive website. The amendments take effect 90 days after Federal Register publication, with a compliance date of 31 March 2025. Advisers no longer eligible must withdraw their SEC registration by 29 June 2025 and register with the appropriate states.

SEC and CFTC Adopt Amendments to Form PF for Increased Disclosure

On 8 February 2024, the SEC and CFTC adopted amendments to Form PF, impacting private fund advisers. The amendments aim to enhance regulatory oversight of hedge funds, improve data quality, and increase transparency. Large hedge fund advisers and those with complex structures will be most affected. The amendments expand disclosure requirements on investment exposures, borrowing, counterparty exposure, risk metrics, performance, liquidity, and financing.

Advisers must now report separately for each fund in master-feeder or parallel structures. New questions address fund types, investments in other funds, and identifying details of master funds. All advisers must disclose withdrawal and redemption rights, including frequency, suspensions, and restrictions. Disclosure of unfunded commitments and contributions during the reporting period is also required. Advisers must identify any trading vehicles used. Increased transparency is required for fund portfolios, internal rate of return, and factors affecting returns. Consolidated counterparty exposure reporting is required, detailing borrowing, lending, collateral, and derivative positions. Digital assets are now a reportable investment strategy.

Large hedge fund advisers face increased monthly exposure reporting requirements, including sub-asset class breakdowns, currency exposure, and industry exposures exceeding 5% of net asset value or US$1 billion. They must also provide more detailed counterparty and creditor disclosures, including identifying their largest counterparties and creditors.

The amendments were originally slated to take effect 12 March 2025, but were delayed to 12 June 2025. These changes increase the burden on advisers, particularly regarding data collection and reporting. The information reported may be used for SEC examinations, especially when assessing risk exposures and conflicts.

Threading the Needle: The US Securities and Exchange Commission's Final Climate-Related Disclosure Rules

On 6 March 2024, the SEC adopted final rules for climate-related disclosures for investors. These rules address required disclosures of climate-related risks faced by a company. The final rules represent a compromise between demands for climate-related disclosures and concerns about regulatory overreach, focusing on materiality and aiming to provide investors with consistent and reliable information. The final rules introduce several changes from the proposed rules, including qualifying several disclosure requirements by materiality, shifting toward a principles-based approach, and eliminating prescriptive requirements, such as board members' climate expertise disclosure.

The rules add a new subpart to Regulation S-K and a new article to Regulation S-X, mandating disclosures on governance, strategy, risk management, targets and goals, and greenhouse gas (GHG) emissions. Governance disclosures describe the board's oversight of climate risks. Strategy disclosures detail material climate risks and their impact, management's role, transition plans, scenario analysis, and internal carbon pricing. Risk management disclosures outline processes for identifying, assessing, and managing climate risks. Targets and goals disclosures cover climate-related targets, progress, and use of carbon offsets or RECs. GHG emissions disclosures require large accelerated filers and accelerated filers to disclose Scope 1 and 2 emissions of material. Financial statement notes must include disaggregated financial information related to severe weather events and other natural conditions.

Compliance dates vary by registrant type and disclosure category. Large accelerated filers have earlier compliance dates than accelerated filers and smaller reporting companies. GHG emissions disclosures and assurance requirements have phased-in compliance dates extending several years after the initial compliance dates for other disclosures. Electronic tagging requirements for subpart 1500 of Regulation S-K begin in fiscal year 2026.

The final rules face legal challenges due to compliance costs and legal questions about the SEC's authority and compelled speech concerns. Several state attorneys general have filed petitions challenging the rules, and the SEC has issued a voluntary stay on their effectiveness. With a change in administration in 2025 and a new SEC Chair, these rules are expected to be rescinded.

SEC Attempts to Expand “Dealer” Definition to Capture Liquidity Providers

On 6 February 2024, the SEC adopted rules expanding the definitions of “dealer” and “government securities dealer” under the Exchange Act. These rules were intended to target market participants acting as “de facto market makers” by requiring them to register with the SEC, join a self-regulatory organization, and comply with dealer regulations. The rules defined “as a part of a regular business” by establishing two qualitative standards that have the effect of providing liquidity: the regularly expressing trading interest standard, or the primary revenue standard.

In the spring of 2024, several trade associations filed actions challenging the rules on the grounds that the SEC exceeded its statutory authority and that the rules were arbitrary and capricious and should therefore be vacated in their entirety. On 21 November 2024, the US District Court for the Northern District of Texas (the Court) found, in both decisions, that the SEC had exceeded its statutory authority and vacated the rules. The Court reasoned that the new definitions were inconsistent with the history of the Exchange Act, which indicates that “dealers” act on behalf of customers. The Court stated in one of the decisions that the structure of the Exchange Act “only makes sense if dealers are in the business of customer-order facilitation.” The Court also rejected the SEC's requests to vacate the rules only as it applies to private funds or to remand to the SEC for further rulemaking, handing the SEC two significant defeats.

Jarkesy's Impact on Agency Enforcement Proceedings: Potential Implications for the SEC and Beyond

On 27 June 2024, the Supreme Court ruled in *SEC v. Jarkesy* that the Seventh Amendment entitles defendants to a jury trial when the SEC seeks civil penalties for securities fraud. This decision invalidates provisions of securities laws that allowed the SEC to compel such cases before an administrative tribunal without juries, requiring instead that these claims be filed in federal district court. The ruling impacts not only the SEC but also other federal agencies using in-house administrative proceedings, likely leading to future constitutional challenges and affecting their enforcement strategies.

The SEC initially gained the authority to seek civil penalties in administrative tribunals through the Dodd-Frank Act, which expanded its jurisdiction beyond federal district courts. The Supreme Court held that securities fraud claims are “legal” in nature, thus subject to the Seventh Amendment. This decision constrains the SEC's use of its administrative courts, potentially increasing the cost and duration of enforcement actions and affecting other agencies like the Federal Energy Regulatory Commission and the Environmental Protection Agency, which may face similar challenges. Regulated entities must now reassess how this ruling may influence the enforcement of various federal laws.

QPAM Exemption Amendment—Key Takeaways and Action Steps for Advisers and Other Stakeholders

On 3 April 2024, the DOL adopted an amendment to Prohibited Transaction Exemption 84-14 (the QPAM Exemption), which affects investment advisers and financial institutions providing services to retirement plans and individual retirement accounts. The QPAM Exemption allows these entities to engage in transactions that would otherwise be prohibited under ERISA and the Internal Revenue Code. The amendment introduced significant changes that became effective on 17 June 2024, including higher assets under management and equity thresholds, expanded criteria for ineligibility due to misconduct, and new requirements for notifying the DOL and retaining records.

The amendment's new conditions require advisers to act independently in investment decisions, provide written agreements with plan clients during transition periods if they become ineligible, and offer indemnification for losses due to violations. Additionally, the amendment broadens the scope of misconduct that can disqualify an adviser from relying on the QPAM Exemption, including certain foreign convictions and nonprosecution agreements. Advisers must submit a one-time notice to the DOL and update it as necessary. These changes mean that fewer asset managers may qualify as QPAMs, and firms must review and update their compliance policies and procedures accordingly. Plan sponsors and their advisers should also verify that their investment

managers will continue to comply with the amended QPAM Exemption.

DOL's Fiduciary Rule: The Latest Developments

In July 2024, two Texas federal courts stayed the Department of Labor's (DOL) fiduciary rule. The courts determined that industry groups challenging the rule were likely to succeed in their argument that it conflicts with ERISA and that the DOL's regulatory action was arbitrary. The rule, which was set to be effective in September 2024, amends the definition of a financial professional acting as a fiduciary under ERISA and the Internal Revenue Code when providing nondiscretionary investment advice. It also amends PTEs, including PTE 2020-02 and PTE 84-24. The court orders indefinitely halt these amendments.

Due to the court orders, the standard for determining fiduciary status remains the five-part test from the DOL's 1975 regulation. This test requires advice on securities, regular basis, mutual agreement, primary basis for decisions, and individualized advice. ERISA fiduciaries are prohibited from using their authority for personal gain unless a PTE applies, such as PTE 2020-02 for rollover advice. With the stay, asset managers should continue complying with the current version of PTE 2020-02, including impartial conduct, best interest advice, policies and procedures, fiduciary acknowledgment, conflict disclosure, rollover justification, and retrospective review. Similarly, parties relying on PTEs 84-24, 75-1, 77-4, 80-83, and 86-128 should adhere to their current versions.

Many financial institutions structure services as nondiscretionary fiduciary investment advice, relying on PTE 2020-02 for rollovers, asset allocation changes, or proprietary fund investments. Those financial institutions can continue relying on the current PTE 2020-02 without the amended requirements. Alternatively, institutions can structure services to avoid fiduciary status by mitigating the risk of being deemed a fiduciary. This can involve client acknowledgments disclaiming fiduciary advice or reliance on advice as a primary basis for decisions, or treating isolated rollover interactions as not meeting the “regular basis” prong. Careful examination of each situation is necessary.

FDIC Proposes Expanding Change in Bank Control Act Reviews Aimed at Asset Managers

The FDIC proposed an amendment to its Change in Bank Control Act of 1978 (CBCA) regulations on 30 July 2024. Driven by the growth of passive investment vehicles and increased bank ownership by large asset managers, the amendment would increase scrutiny of share acquisitions in FDIC-supervised banks by “fund complexes” (i.e., a group of registered investment companies, investment funds, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by the same company and its affiliates).

This includes indirect acquisitions reviewed by the Federal Reserve Board. The FDIC is concerned about potential risks posed by passive investment strategies and increasing ownership concentration in banks by large asset managers. If adopted, the amendment could significantly increase CBCA filings for fund complexes, delay the execution of transactions implementing the index reallocation or reconstitution, impacting strategies, performance, and operations.

ASIA

ASIA

HONG KONG SUMMARIES

Hong Kong Publishes Taxonomy for Sustainable Finance

On 3 May 2024, the Hong Kong Monetary Authority published the Hong Kong Taxonomy for Sustainable Finance. It currently encompasses 12 economic activities under four sectors: power generation, transportation, construction, and water and waste management. It is expected to include more sectors and activities in the future, including transition activities, and is designed to facilitate easy navigation among other taxonomies, including the Common Group Taxonomy, China's Green Bond Endorsed Projects Catalogue, and the European Union's Taxonomy for Sustainable Activities. Although the Hong Kong Taxonomy is not expected to have any immediate regulatory impact on fund managers in Hong Kong as it is not required to be adopted, it provides practical guidance to fund managers who are required to take account of climate-related risks in their investment and risk management processes regardless of whether the managed fund is a Hong Kong ESG Fund. It also provides guidance to fund managers of Hong Kong ESG Funds when selecting underlying investments that are commensurate with the disclosed ESG focus of such funds.

Hong Kong Publishes Voluntary Code of Conduct for ESG Ratings and Data Providers

On 3 October 2024, a working group for the International Organization of Securities Commissions, comprised of Hong Kong and international representatives, published a voluntary code of conduct for ESG ratings and data providers modeled on international best practices recommended by the International Organization of Securities Commissions and intended to be internationally interoperable and part of a globally consistent regulatory framework. The code is intended to enhance transparency of methodologies for ESG ratings and data products and improve standards generally across the market, which should assist users of these products, including funds and fund managers, to better carry out their due diligence.

JAPAN SUMMARIES

Japan Adopts Basic Guidelines on Impact Investments

The Financial Services Agency of Japan (FSA) convenes several groups of academic and industry experts to discuss various ESG-related issues in the financial sector. Most recently, upon public consultation on 29 March 2024, the FSA adopted the “Basic Guidelines on Impact Investment (Impact Finance),” setting forth certain concepts and factors to be considered in pursuing “impact investments” (Impact Investment Guidelines).

The Impact Investment Guidelines highlight four specific elements of impact investments: (a) intention; (b) contribution; (c) identification, measurement, and management; and (d) accelerating market transformations. They also provide guidance regarding these concepts. For example, with respect to intention, they describe how intended social and environmental impacts can be or should be clarified.

The stated purposes of the Impact Investment Guidelines include setting forth shared understandings and expectations for concepts relating to impact investments among asset managers, investors, and other stakeholders, and encouraging further discussions among them. While the Impact Investment Guidelines do not create any legal or regulatory obligations per se, asset managers may want to consider these elements when providing

services to Japanese investors in the area of impact investments.

Japan Adopts Asset Owner Principles

In August 2024, the Japanese government adopted "Asset Owner Principles," which set forth five principles that should be considered by asset owners in fulfilling their fiduciary responsibilities. These principles include consideration relating to stewardship activities, including engaging in sustainable investments or requiring their managers to consider sustainability in investing in their assets. These principles are not regulations per se. Nevertheless, a number of Japanese institutional investors—including corporate and public pensions, insurance companies, and universities—have already announced that they adopted these principles.

Japan's FSA Requires Real Estate Funds Take Additional Safeguards Against Conflicts of Interest

The FSA proposed amendments to its supervisory guidelines applicable to managers of investment trust (toshin) funds and real estate funds in May 2024. Of those, amendments relating to real estate funds would require managers to take additional measures to manage transactional conflicts of interest, specifically:

- Implement property due diligence processes and keep proper records as part of the existing measures required to ensure the appropriateness of due diligence;
- Implement systems to avoid inappropriate influence over service providers, e.g., appraisers, to ensure their independence; and
- Document internal considerations and keep meeting minutes with parties of potential conflicts of interest transactions, which would allow periodical assessment of such transactions.

SINGAPORE SUMMARIES

Singapore Introduces Capital Gains Tax for Certain Foreign Asset Sales: Implications of Section 10L on Investment Funds

Historically, Singapore has not taxed capital gains. However, since 1 January 2024, under the newly enacted Section 10L of the Income Tax Act 1947 of Singapore, gains received in Singapore from the sale or disposal of any foreign asset (e.g., shares issued by a company incorporated outside Singapore) by an entity within a multinational group will be treated as taxable income if the entity does not have adequate economic substance in Singapore. Section 10L is designed to address international tax avoidance risks and align the key areas of Singapore's tax regime with international norms and the European Union's Code of Conduct Group's foreign source income exemption (FSIE) guidance. Similar legislative changes have been made in other major investment fund centers in the Asia Pacific region, such as Hong Kong and Malaysia. Hong Kong, for example, has recently refined its FSIE regime, under which foreign-sourced disposal gains are deemed to be sourced from Hong Kong and chargeable to profits tax if the recipient entity does not meet the economic substance requirement or the participation requirement. Unlike Singapore, however, Hong Kong's FSIE regime explicitly excludes certain approved tax-exempt fund vehicles.

Singapore Announces Climate Reporting Will Be Effective in FY 2025 for Business Trusts, Investment Funds (excluding ETFs), and REITs

In February 2024, the government announced that listed companies in Singapore will be required to make ISSB-aligned, climate-related disclosures of GHG emissions from FY 2025, if any of the three following categories of GHG emissions are applicable:

- Scope 1 GHG emissions: Direct emissions from owned or controlled resources of the entity.

- Scope 2 GHG emissions: Indirect emissions from the generation of purchased energy by the entity.
- Scope 3 GHG emissions: Any indirect emissions that occur in the value chain of the entity, including upstream and downstream emissions.

Entities listed on the Singapore Exchange will have to report on Scope 1 and Scope 2 GHG emissions from FY 2025. From FY 2026, they will be required to report on the much broader Scope 3 GHG emissions where applicable.

From FY 2027, large nonlisted companies with at least S$1 billion in revenue and total assets of at least S$500 million will also be required to report on Scope 1 and Scope 2 GHG emissions. The reporting requirements for these companies in relation to Scope 3 GHG emissions will be reviewed in the coming years and in any event will not come into force before FY 2029.

The new reporting requirements will apply to listed business trusts, investment funds (excluding ETFs), and real estate investment trusts. It remains to be seen if this climate-related disclosure requirement will extend to private investment funds in the future.

In view of the increasing demand for companies to publish climate-related disclosures, Singapore's Economic Development Board and EnterpriseSG will launch a Sustainability Reporting Grant. This grant will provide funding support for large companies with annual revenue of at least S$100 million to cover a portion of their costs in producing their first sustainability report in Singapore. The grant defrays up to 30% of qualifying costs, capped at the lower of S$150,000 per company or 30% of the qualifying costs in the preparation of their first sustainability report.

AUSTRALIA

AUSTRALIA

AUSTRALIA SUMMARIES

Sustainable Investment

Reporting

Australia has introduced from January 2025, on a phased-in basis, a mandatory climate disclosure regime that will require relevant entities to produce "sustainability reports" comprised of climate-related material including Scope 1, 2, and 3 emissions. These climate-related disclosures are subject to the same regulatory framework as applies to company financial disclosures including existing directors' duties in respect of the publication of reports, misleading and deceptive conduct provisions, and general disclosure obligations.

ASIC has stated that it will take a "pragmatic and proportionate approach" to supervision and enforcement of sustainability reports in the early stages of the regime. The reporting regime also includes transitional arrangements where liability for misleading and deceptive conduct in relation to the most uncertain parts of a sustainability report will be the subject of certain limited immunities.

Greenwashing

ASIC has also indicated that it will continue in 2025 with its hard line against greenwashing and released in 2024 its Report 791, which provides entities with further guidance and good practice examples in order to avoid potential instances of greenwashing. In particular, ASIC recommends that entities verify investments for consistency against disclosed investment strategies.

Entities should ensure that sufficient steps are taken to confirm that investments made are verified as being consistent with the claims made about investment strategy, to avoid potentially misleading investors and stakeholders.

Product Labelling

With the increased focus on responsible or sustainable investment labelled investment products, industry has recognized a need for consistency and reliability in labelling for both consumers and product issuers. The Financial Services Council, in collaboration with the Responsible Investment Association of Australia, released an Information Sheet that outlines the overarching principles in relation to the use of responsible or sustainability-related terms in investment product labelling to promote consistency across the industry.

While compliance with the Information Sheet is not compulsory, it is expected that ASIC will take account of the principles contained within it in connection with its greenwashing surveillance and enforcement activity.

ASIC to Focus on Private Market Funds

ASIC indicated that it would be increasing its scrutiny of private market funds in 2025.

Historically, ASIC's regulatory and enforcement attention has focused on registered (retail investor) funds rather than private funds (wholesale, unregistered funds). Recently, however, ASIC has stated that there is a concern over the lack of transparency in private markets by virtue of their very nature, and it was concerned that investors in private funds might not be adequately protected.

The management and promotion of private funds in Australia necessitate the involvement of Australian Financial Services (AFS) licensees, and ASIC has significant supervision and enforcement powers in relation to market misconduct and AFS licensees. ASIC has stated that it would establish a dedicated team to investigate market misconduct, including conflicts of interest, but to date, no specific private

funds or asset classes have been identified as a target in ASIC's inquiries. However, it is expected that private credit funds and real property-related funds will be early candidates for ASIC surveillance.

APRA Review of Liquidity and Valuations

In December 2024, the Australian Prudential Regulation Authority (APRA) released findings of an industry review that highlight the need for improved valuation and liquidity risk governance for superannuation funds. The findings identified that in relation to unlisted asset valuation governance, there were weaknesses in areas such as board oversight, conflicts of interest management, and fair value reporting. The review also found that in relation to liquidity risk management, there were weaknesses such as trigger frameworks for potential liquidity stress and liquidity action plans.

APRA emphasized that as superannuation holdings in unlisted assets are expected to increase, the need to address risks related to valuation governance and liquidity management will be a critical issue for the industry and a priority area for APRA. In addition, APRA has stated that it expects licensees who are identified as having deficiencies will be required to formulate appropriate and timely remediation plans.

As a result of this increased regulatory focus, it is expected that from 2025, Australian superannuation funds will be seeking significant additional information and responses on asset valuation issues from the managers of their unlisted assets.

Changes in Rules for ETFs

In March 2024, ASIC issued a new legislative instrument extending existing regulatory relief previously only available to passively managed index tracking ETFs so that it will now also apply to a broader range of ETFs (such as actively managed ETFs) quoted on a financial market operated by the Australian Stock Exchange (ASX) or the Chicago Board Options Exchange (Cboe).

Separately, following a two-year consultation period on ETP naming conventions, amendments to the ASX Operating Rules, ASX Operating Rules Procedures, and ASX Settlement Operating Rules became effective on and from 15 April 2024. The updated naming conventions introduce a primary label based on product type and secondary label based on products with specific risks or strategies. The amendments have impacted all ETPs that are traded on the ASX, which include ETFs and structured products. Cboe will similarly be impacted by the amendments if it adopts ASIC's guidance on ETPs.

Extension of Financial Accountability Responsibilities

Australia's amended Financial Accountability Regime (FAR) came into force for the banking industry on 15 March 2024. Jointly administered by both ASIC and APRA, FAR was designed to improve the risk and governance cultures of Australia's financial institutions through identification and allocation of organizational responsibilities among accountable executives.

FAR will apply for the first time to all insurers and registrable superannuation entity licensees beginning 15 March 2025.

Regulating AI

On 31 January 2024, Chair Joe Longo outlined ASIC's position on Australia's AI regulatory landscape and noted that while current laws—such as those for privacy, online safety, directors' duties under the Corporations Act 2001 (Cth), intellectual property, and antidiscrimination—offer some regulation, they fall short in effectively addressing the risks associated with AI.

ASIC in particular is scrutinizing the use of AI in financial services, and it observes that for many AFS licensees and Australia Credit licensees, the deployment of AI falls short of their existing regulatory obligations. On 29 October 2024, ASIC released a report (REP 798) that outlines the regulator's findings

from its market review into the use and adoption of AI across financial services and credit licensees. ASIC concluded that licensees are implementing AI more quickly than they are adjusting their risk and compliance frameworks to manage the heightened risks and challenges that AI adoption brings, creating a real risk of consumer harm.

It is anticipated that in 2025, the best practices outlined in REP 798 will influence ASIC's enforcement of current regulatory requirements, and it is likely that some of these best practices will be incorporated into future legislation.

Licensing Reforms for Crypto and Payments

Crypto

ASIC released proposed updates to Information Sheet 225 (INFO 225) on 4 December 2024 with a final version expected by the second quarter of 2025. The draft update to INFO 225 represents a substantial expansion of the existing guidance for digital assets in Australia. This includes financial product and services classifications, licensing expectations, consumer law obligations, and design and distribution obligations. If adopted in its current form, the updated guidance is expected to result in many additional businesses that are involved with crypto assets, virtual assets, and tokenized assets needing to obtain AFSL or Australian Markets Licences (AML).

The government has also proposed additional licensing requirements for entities involved in crypto services, such as crypto exchanges, custodians, and service providers.

Payments

With the rapid pace of innovation in payment systems and changes in the market structures, the Reserve Bank of Australia has flagged the introduction of a tailored payments licensing framework for payment service providers (PSPs).

The new PSP licensing framework will involve the setting of regulatory obligations for the purpose of managing risks to payments users. A series of consultation papers on the payments licensing framework have been released that set out an updated list of payment functions for which a PSP license would be required and the proposed regulatory obligations for PSP licensees. The framework is anticipated to be developed further in 2025.

Anti-Money Laundering Changes

On 7 January 2025, the Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2024 (Act) came into force with three main objectives:

- Extending Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime to “tranche-two” entities, such as lawyers, accountants, trust and company service providers, real estate professionals, and dealers in precious metals and stones, from 31 March 2026;
- Modernize the regulation of virtual assets and payments technology. The Act extends AML/CTF laws to all “virtual assets” and will extend to providing financial services ancillary to the offer or sale of virtual assets; and
- Simplified and clarify the regime, increase flexibility, reduce regulatory impacts, and support businesses to prevent and detect financial crime.

Separately, the Australian Transaction Reports and Analysis Centre released a public consultation on new AML/CTF rules on 11 December 2024. The new rules contain some significant new material and are expected to commence on 31 March 2026.

EUROPE

EUROPE

UK SUMMARIES

Sustainability Disclosure and Labelling Regime (SDR)

In 2024, the SDR came into effect for UK funds and managers. The SDR includes rules on antigreenwashing, naming and marketing of funds, as well as product (i.e., fund) and entity (i.e., manager) level sustainability disclosures. There is also a new fund labelling regime with four sustainability labels: Sustainability Focus, Sustainability Improvers, Sustainability Impact, and Sustainability Mixed Goals. Detailed disclosures are required for funds using a label and (to a lesser extent) funds not using a label but using ESG terms in their names or literature. All funds using a label must notify the Financial Conduct Authority (FCA) before doing so. In general, SDR does not currently apply to offshore funds being marketed in the UK.

ESG Rating Regulation

The UK first consulted on regulating providers of ESG ratings in 2023. In November 2024, the draft regulation was published. Providing ESG ratings will become a "regulated activity" requiring prior authorization by the FCA. This will apply to both UK ESG rating providers and non-UK providers that provide ESG ratings to UK users. There are various exclusions, one of which will exclude asset managers that provide ESG ratings to their investors as part of their asset management activities. The final legislation is expected in early 2025. The FCA will consult on further detailed rules and guidance before the regime comes into force.

Payments for Investment Research

On 1 August 2024, new research payment option rules came into force. These now give UK MiFID investment firms (such as managers of segregated accounts) the option to bundle payments on behalf of clients for investment research with similar payments for execution services, subject to certain guardrails, such as requiring separately identifiable research charges, a firm budget for research expenditure, and fair allocation of research costs between clients. On 5 November 2024, the FCA proposed to extend this new payment optionality to fund managers including UCITS management companies (essentially retail fund managers) and alternative investment fund managers (such as hedge fund managers). A policy statement with final rules is expected in the first half of 2025.

Overseas Funds Regime

A non-UK fund recognized by the FCA under the OFR may be marketed to retail investors in the UK. Since September 2024, the OFR has been operational for new fund applications from EU UCITS (except money market funds). The TMPR, which has allowed certain EU UCITS to continue marketing to UK retail investors following the UK's withdrawal from the European Union, is being wound down with funds being given a three-month "landing slot," during which they may apply to transition into the OFR. The landing slots are being issued on a phased basis between October 2024 and September 2026 depending on the operator's name.

UK EMIR

There have been notable changes to derivative reporting requirements under UK EMIR, including requirements to report additional information. The new requirements have been applicable in the UK since 30 September 2024, with a grace period until 31

March 2025 to update the reporting for existing reportable derivative transactions. There is a new requirement for counterparties and reporting entities to address reconciliation failures promptly, based on feedback from trade repositories. The entity responsible for reporting must also notify the FCA of any material errors or omissions as soon as they are identified.

FCA Feedback on the CrowdStrike Outage

Following the world-wide CrowdStrike IT outage on 19 July 2024, the FCA published lessons for operational resilience on 31 October 2024.
Key observations included that (a) firms that had mapped important business services, and the resources necessary to deliver those services, were able to prioritize quick recovery to reduce overall impact; (b) prior testing of recovery from severe but plausible scenarios helped firms manage impacts; and (c) firms with clear, tested communication strategies communicated efficiently with customers and stakeholders. The FCA expects firms to review and improve their testing scenarios to minimize future disruptions.

MIDDLE EAST

MIDDLE EAST

UNITED ARAB EMIRATES SUMMARIES

Federal Savings Scheme Funds

In 2023, the MHRE, the federal authority responsible for governing the employment market in the UAE, launched an alternative to the existing end-of-service benefits available under the Federal Labor Law No. 33 of 2021, which requires employers to pay employees an end-of-service gratuity payment on termination of their employment (Savings Scheme). The Savings Scheme has generated significant interest among asset managers outside the UAE and other financial service providers seeking to provide investment options under the Savings Scheme.

Under the Savings Scheme, employers and employees may agree to invest an employee's portion of service benefits in certain collective investment funds (Savings Scheme Funds) licensed by the Securities and Commodities Authority (SCA). An employer would be required to make a monthly contribution (5.83% or 8.33% of an employee's monthly basic salary, depending on the duration of an employee's continuous years of service) to a Savings Scheme Fund on behalf of the employee. This would enable the employee to receive a return on the contributions made by the employer on termination of their employment.

One of MHRE's goals of introducing the Savings Scheme, which is currently available on a voluntary basis, is to protect employees from any adverse events that may impact the liquidity of their employers, including inflation, default, and bankruptcy. It also gives employees the opportunity to invest capital and participate in various economic opportunities in the UAE, further growing the local economy.

The Savings Scheme Funds initiative is similar to the existing Dubai International Finance Centre (DIFC) Employee Workplace Savings Plan (DEWS), which came into effect in 2020. DIFC-registered employers are legally required to register with DEWS (or a similar qualified plan).

Although the Savings Scheme Funds program is currently offered on a voluntary basis, this could change in the near future to become compulsory as is the case with DEWS.

Non-UAE asset managers have already shown great interest in participating in the Savings Scheme Funds. Below are some of the key requirements and considerations that foreign asset managers should be aware of:

- The asset manager must have an existing corporate entity incorporated onshore of the UAE and licensed by the SCA to form and manage funds.
- The asset manager must obtain a no-objection letter from the MHRE allowing them to proceed with applying to the SCA to form one or more funds under the Savings Scheme.
- The asset manager must form at least one basic salary fund (Basic Salary Fund). If only one Basic Salary Fund will be formed, then it must be Shariah compliant.
- If the asset manager forms more than one Basic Salary Fund, then at least one of them has to be Shariah compliant.

- In addition to the Basic Salary Fund, an asset manager must apply to the SCA to form a voluntary contribution fund (Voluntary Fund). Employees have the option to make additional contributions under the Savings Scheme by contributing a percentage of their salary to a Voluntary Fund, subject to any restrictions set by the MHRE and the SCA.

It is also recommended that non-UAE asset managers obtain corporate structuring advice to ensure the legal form and corporate governance of the fund manager vehicle that will be incorporated is suitable for their intended activities and goals.

Registering a domestic fund with the SCA (including a Savings Scheme Fund) is an involved process and requires careful planning and understanding of the applicable laws and regulations in the UAE (including those of the SCA). In addition to the usual set of fund documentation and agreements that needs to be prepared to form a fund, there are a number of SCA forms and applications that must be completed and submitted. Although the SCA does accept documents prepared in English only, there may be one or more documents that will need to be prepared and submitted in a dual language format in English and Arabic.

Promoting Foreign Funds Onshore of the UAE

The SCA overhauled its rules on promoting foreign funds in mainland UAE in January 2023. The SCA is the financial regulator responsible for supervising and regulating mainland UAE and any free zone that does not have its own financial regulator (i.e., all other free zones except for the DIFC and the Abu Dhabi Global Market (ADGM)).

The general rule is that a foreign fund may not be promoted in the UAE unless, (a) it is registered with the SCA and (b) an SCA-licensed local promoter is engaged to promote the foreign fund in accordance with the SCA Rulebook. As of January 2023, newly registered foreign funds can only be promoted on a private placement basis to professional investors (as defined in the SCA Rulebook). The SCA also expects the minimum subscription requirement applicable to the foreign fund to be at least AED500,000 (c. US$136,000).

There are several exemptions to the general rule, including a reverse solicitation solely initiated by the investor in the UAE and without being induced to invest by the foreign fund's fund manager, promoters, etc. The burden of proof falls on the foreign fund as to whether a particular offer and sale constituted a true reverse solicitation, and documentary evidence should be retained.

Marketing to certain professional investors, including federal or local governments, government institutions and agencies, or companies wholly owned by any of them, also exempts the foreign fund from the SCA registration and local promoter requirements otherwise applicable to marketing of foreign funds.

Digital Assets—Onshore Legislation

The UAE is enthusiastic about the digital assets and AI space. This is demonstrated by the UAE Digital Government Strategy, which seeks to focus on integrating the use of AI in various sectors, including government services, health care, education, finance, and transportation. The UAE's legal framework on digital assets is relatively new and untested. The majority of legislation has only been published in the last two or three years and so counsel and investors should keep this in mind while navigating the UAE digital assets regime and carrying out related business.

Below is a list of some of the key legislation onshore of the UAE that has been published to date in relation to digital assets:

- UAE Central Bank Stored Value Facilities Regulation (SVF Regulations). Under the SVF Regulations, "Crypto Assets" is defined as "cryptographically secured digital representations of value or contractual rights that use a form of distributed ledger technology and can be transferred, stored or traded electronically."
- UAE Central Bank Retail Payment Services and Card Schemes Regulation. This regulation sets out the rules to obtain a license for the provision of retail payment services. The retail payment services are digital payment services in the UAE.
- UAE Cabinet Resolution No. 111 of 2022 on the Regulation of Virtual Assets and their Service Providers. This applies to the virtual assets sector in the UAE, the activities related to virtual assets, and to virtual asset service providers on a federal level in the UAE and also in the free zone, but not within the DIFC or ADGM. Virtual assets are broadly defined as "digital representation of the value that can be traded or transferred digitally, can be used for investment purposes and does not include digital representations of paper currencies, securities or other funds."
- SCA Resolution No. 26 of 2023 on the Regulation of Virtual Assets Platform Operators. This resolution applies to virtual asset platform operators in the UAE. A virtual assets platform is defined as "a platform for listing, trading and transferring ownership of virtual assets and conducting clearing and settlement transactions thereof, along with the storing and saving of information and data by the distributed ledger technology of any other similar technology."
- VARA was established pursuant to Dubai Law No. 4 of 2022. As the world's first digital asset regulator, VARA signifies Dubai's pioneering role in this sector. Operating with legal personality and financial autonomy, VARA is linked to the Dubai World Trade Centre Authority and oversees activities practiced onshore of Dubai and in all Dubai-based free zones, excluding the DIFC.
- VARA introduced its Virtual Assets and Related Activities Regulations to apply to all virtual assets and virtual assets activities in Dubai. According to these regulations, no entity may carry out any virtual asset activity, by way of business or promotion in Dubai, unless it is authorized and licensed by VARA.

The DIFC and the ADGM each have their own set of legislation governing digital assets.

QATAR SUMMARIES

Digital Assets Regulations

On 1 September 2024, the Qatar Financial Centre (QFC) adopted the Digital Assets Regulations 2024 (the DA Regulations), in line with the country's Third Financial Sector Strategic Plan, which aims to develop a financial and capital market that sets the region's standard in innovation, efficiency, and investor protection, while positioning Qatar to fully realize its economic potential in alignment with its 2030 National Vision.

This regulatory framework, designed to support Qatar's digital economy strategy, provides a legislative and regulatory formalization of tokens. The DA Regulations have introduced the legal recognition of digital assets and allows for these assets to be represented as digital tokens in smart contracts—a significant step in enhancing legal clarity and establishing a reliable technological environment for digital assets.

Other than granting legal recognition of digital assets, the DA Regulations also aim to tackle key issues related to digital assets, such as ownership rights, custody arrangements, ownership transfers, trading and exchange of digital assets, and the use of smart contracts.

To create a permitted token, Article 12 of the DA Regulations outlines several requirements, including that to be tokenized, the owner of the asset must first obtain a certificate from a validator, after which the owner requests a token generator to create the token for the right. The token generator then creates the token representing the right on the token system and either grants the owner the ability to transfer the token on the system or authorizes someone acting on the owner's behalf, such as a custodian, to transfer the token. This certificate of validation explains the right to be tokenized and confirms that the validator believes the person claiming to own the right is the actual owner.

It is important to distinguish between a “permitted” and an “excluded” token, as the key provisions of the DA Regulations, such as those concerning the ownership and generation of tokens, only apply to permitted tokens. Excluded tokens, in essence, do not represent a right in any property (other than the token itself), are not used as a replacement for or representation of currency, and cannot be used for payments. For clarification, Article 9 of the DA Regulations provides examples of excluded tokens, which include a cryptocurrency token used instead of regular money but not backed by any government or representing any other property, and a stablecoin, which acts as a substitute for money and can be used for payments. However, a token representing a right to something like a precious metal is not an excluded token, even if it can be traded.

With regards to ownership, if someone has control over the ability to transfer a token, they can be assumed to be the owner of the token. However, this assumption can be overturned by a ruling from the QFC's court if it determines that the person did not lawfully either (a) gain control over the ability to transfer the token or (b) acquire ownership of the underlying right. A request for such a ruling can only be made by a validator or anyone else the court deems to have a valid interest in determining the ownership of the token or the right it represents. Before making a ruling, the court may gather evidence from anyone it considers relevant.

When the DA Regulations refer to transferring a token, they specifically mean transferring control over the power to transfer the token itself. When a permitted token is transferred, the underlying right it represents is also transferred to the new owner, and the underlying right can only be transferred by transferring the permitted token that represents it. This rule holds even if other regulations or rules within the QFC require different formalities or conditions for transferring the underlying right. If the underlying right is transferred in any manner other than by transferring control over the ability to transfer the permitted token, the transfer is deemed invalid and has no legal effect.

Further, the DA Regulations also ensure remedies for unlawful transfer, where if a person A suffers a loss due to another person B transferring a permitted token without being the owner, the person suffering the loss may apply to the QFC Court to issue an order. If the court agrees with A's request, it has the authority to make any order it deems necessary, such as ordering B to pay damages to A and any other affected parties, as the QFC Court considers appropriate, or directing B, or any subsequent holder of the token, to take actions to restore A's rights, such as returning the token, canceling it, or creating a new token for A. Interestingly, the QFC Court can also listen to evidence from anyone else involved. This does not, however, affect any person's liability under the criminal law of Qatar.

Active Asset Management Initiatives

The Qatar Investment Authority (QIA) launched two initiatives in 2024 to facilitate growth in Qatar's emerging asset management environment, the Active Asset Management Initiative and an initiative targeted toward funds-of-funds structures. The Active Asset Management partnership was announced in January 2024 identifying Ashmore Group plc (Ashmore) as the

first partner. As part of this initiative, the Ashmore Qatar Equity Fund (the Fund) was launched with approximately US$200 million with the QIA as an anchor investor. The Fund is intended to act as a channel for local and foreign investors to contribute and help the development of the local financial market.

"Fund of Funds" Program

Following the announcement of the Active Asset Management Initiative, His Excellency the Prime Minister and Minister of Foreign Affairs of the State of Qatar introduced the State's first venture capital "Fund of Funds" program in February 2024. The program aims to strengthen and develop the entrepreneurial market in Qatar by promising to invest more than US$1 billion in international and regional venture capital funds by primarily focusing on start-ups within the technology and health care sectors. The program will exclusively invest in venture capital funds.

In addition, the program seeks to indirectly invest in existing venture capital funds while maintaining targeted direct co-investments.

The QIA is currently accepting applications from asset managers and fund sponsors for this program, requiring applicants to meet stringent criteria, including a minimum of 10 years of experience in venture capital funds, as well as an average internal rate of return above 10%. The application form must include an executive summary, an overview of the firm, the fund's investment strategy and finances, and a statement on the development impact to be considered. The program promotes a dual investment mandate to maximize both financial performance and development impact.

EDITORS AND CONTRIBUTORS

GLOBAL EDITOR

Lance C. Dial
Partner
Boston
+1.617.261.3241
Lance.Dial@klgates.com

REGIONAL EDITORS

Jim Bulling
Partner
Melbourne
+61.3.9640.4338
Jim.Bulling@klgates.com

Lance C. Dial
Partner
Boston
+1.617.261.3241
Lance.Dial@klgates.com

C. Todd Gibson
Partner
Boston, Pittsburgh
+1.617.261.3140
Todd.Gibson@klgates.com

Philip J. Morgan
Partner
London
+44.20.7360.8123
Philip.Morgan@klgates.com

Scott D. Peterman
Partner
Hong Kong
+852.2230.3598
Scott.Peterman@klgates.com

CONTRIBUTORS

NAME	TITLE	OFFICE	PHONE	EMAIL
Edward M. Bennett	Partner and Director, K&L Gates Straits Law	Singapore	+65.6507.8109	Edward.Bennett@klgates.com
Bradley D. Bostwick	Associate	Boston	+1.617.951.9077	Bradley.Bostwick@klgates.com
Jim Bulling	Partner	Melbourne	+61.3.9640.4338	Jim.Bulling@klgates.com
Sasha Burstein	Partner	San Francisco, Palo Alto	+1.415.882.8032	Sasha.Burstein@klgates.com
Grant F. Butler	Partner	Boston	+1.617.261.3113	Grant.Butler@klgates.com
Roberta Chang	Partner	Shanghai	+86.21.2211.2086	Roberta.Chang@klgates.com
Varu Chilakamarri	Partner	Washington D.C.	+1.202.778.9165	Varu.Chilakamarri@klgates.com
Jessica D. Cohn	Of Counsel	Washington D.C.	+1.202.778.9039	Jessica.Cohn@klgates.com
Ruth E. Delaney	Partner	Los Angeles	+1.310.552.5068	Ruth.Delaney@klgates.com
Lance C. Dial	Partner	Boston	+1.617.261.3241	Lance.Dial@klgates.com
Brian Doyle-Wenger	Associate	Nashville	+1.615.780.6718	Brian.Doyle-Wenger@klgates.com
Jon-Luc Dupuy	Partner	Boston	+1.617.261.3146	Jon-Luc.Dupuy@klgates.com
Nicholas O. Ersoy	Associate	Washington D.C.	+1.202.778.9135	Nick.Ersoy@klgates.com
Meghan E. Flinn	Partner	Washington D.C.	+1.202.778.9458	Meghan.Flinn@klgates.com
C. Todd Gibson	Partner	Boston, Pittsburgh	+1.617.261.3140	Todd.Gibson@klgates.com

NAME	TITLE	OFFICE	PHONE	EMAIL
Cal J. Gilmartin	Partner	Boston	+1.617.951.9103	Cal.Gilmartin@klgates.com
Michael Culhane Harper	Partner	Washington D.C.	+1.202.778.4572	Michael.Harper@klgates.com
Sean M. Jones	Partner	Charlotte	+1.704.331.7406	Sean.Jones@klgates.com
Richard F. Kerr	Partner	Boston	+1.617.261.3166	Richard.F.Kerr@klgates.com
Jennifer L. Klass	Partner	New York	+1.212.536.3961	Jennifer.Klass@klgates.com
Jordan A. Knight	Associate	Boston	+1.617.951.9253	Jordan.Knight@klgates.com
Theodore L. Kornobis	Partner	Washington D.C.	+1.202.778.9180	Ted.Kornobis@klgates.com
Ke Jia Lim	Associate, K&L Gates Straits Law	Singapore	+65.6507.8189	KeJia.Lim@klgates.com
Pablo J. Man	Partner	Boston	+1.617.951.9209	Pablo.Man@klgates.com
Charmaine Mok	Associate	Hong Kong	+852.2230.3579	Charmaine.Mok@klgates.com
Philip J. Morgan	Partner	London	+44.20.7360.8123	Philip.Morgan@klgates.com
Jason R. Nelms	Partner, K&L Gates Straits Law	Singapore	+65.6713.0299	Jason.Nelms@klgates.com
Tsuguhito Omagari	Partner	Tokyo	+81.3.6205.3623	Tsuguhito.Omagari@klgates.com
Scott D. Peterman	Partner	Hong Kong	+852.2230.3598	Scott.Peterman@klgates.com
Gustavo De La Cruz Reynozo	Associate	Boston	+1.617.951.9041	Gustavo.DeLaCruzReynozo@klgates.com
Julie F. Rizzo	Partner	Raleigh	+1.919.743.7336	Julie.Rizzo@klgates.com
Yuki Sako	Of Counsel	Washington D.C., Tokyo	+1.202.778.9061	Yuki.Sako@klgates.com

NAME	TITLE	OFFICE	PHONE	EMAIL
Harriet Sherwin	Trainee Solicitor	London	+44.20.7360.8110	Harriet.Sherwin@klgates.com
Robert L. Sichel	Partner	New York	+1.212.536.3913	Rob.Sichel@klgates.com
Fatima S. Sulaiman	Partner	Washington D.C.	+1.202.778.9082	Fatima.Sulaiman@klgates.com
William P. Wade	Of Counsel	Los Angeles	+1.310.552.5071	William.Wade@klgates.com
Xuekai Zhang	Special Counsel	London	+44.20.7360.6404	Kai.Zhang@klgates.com
Anita Zhou	Associate	Shanghai	+86.21.2211.2082	Anita.Zhou@klgates.com

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