New Developments: Regulatory + Tech

Different Risks & New Frontiers

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FAIRVIEW

Presenter

Ellen Harvin, CEO, Compliance Administration and Performance Services

Ellen Harvin joined Fairview in 2005. Today, her primary focus is leading Fairview Compliance Administration. She leads a team delivering compliance services to nearly 200 investment advisers and financial firms, supporting a broad and diverse client base. In this role, she oversees the delivery of premium client service, manages the operating structure of the compliance team, and coordinates strategic initiatives, including the implementation of technology-driven solutions. She also oversees the development and implementation of strategic initiatives across technology, team development, internal processes, and the optimization of client deliverables. She is also responsible for business development and serves as a liaison between the compliance group and shared services and enterprise operations teams.

Ellen has worked in the financial services industry since 2004. Prior to that, she served as a Vice President of Account Management at a full-service marketing and advertising firm. In that role, she developed deep expertise in client service and relationship management—skills that became the foundation for the client service model that Fairview continues to use today.

Overview

- Prediction Markets
- Digital Asset Interpretive Guidance
- Crypto Assets and Custody: Recent SEC No-Action Letter
- Artificial Intelligence and the SEC

Prediction Markets

Prediction Markets

Current activity:

- Polymarket and Kalshi
- “Betting” through regulated event contracts or prediction market contracts
- Regulatory and firm questions

Regulatory (CFTC):

- Event contracts are “gaming” courts disagreed (2024-2025)
- New proposed rulemaking (2026)
- Enforcement related to fraud and insider trading

Prediction Markets

Compliance Considerations:

- Code of ethics policies
- Increased risk of potential MNPI
- Maintaining market integrity
- Treat as derivative instruments
- Prohibit personal activity in investment/economic/market-related contracts
- Regulated vs. non-regulated platforms

SEC Digital Asset Interpretive Guidance

SEC Digital Asset Interpretive Guidance

Securities Classification:

- “Tokenized” digital asset is classified as a security
    - Other categories are not securities

Compliance Risks:

- Interpretive guidance has been provided, but is binding rulemaking
- Inconsistent recordkeeping and disclosure frameworks
- Maintenance and control of private keys
- Challenges for code of ethics monitoring

Custody & Crypto Assets

Custody & Crypto Assets: No-Action Relief

- Provides for non-traditional arrangements
- A State-regulated Trust Company can be used as a qualified custodian
- Adviser or the Fund must have a reasonable belief that the State Trust Co is:
  - Authorized
  - Maintains policies and procedures to safeguard crypto assets that include:
    - Cybersecurity
    - Physical security
    - Business continuity
    - Private key generation and storage
  - In good standing with the applicable regulatory agencies

Custody & Crypto Assets: No-Action Relief

- Prior due diligence includes receiving and reviewing:
  - State Trust Co's most recent annual financial statements audit by an independent public accountant and prepared in accordance with GAAP
  - Most recent written internal control report
- Agreement required
- Disclosures required
- Must be in the interest of the client and investors in the Fund
- Amendments to the custody rules are currently pending

Artificial Intelligence & The SEC

Investment Process

COMPLIANCE CONSIDERATIONS:

- Use of AI and advanced tools
- Regulatory scrutiny
- Technology does not replace fiduciary duty
- Disclosures
- Policies and procedures

RISK AREAS:

- Model errors or bias
- Unreliable resources used
- Data integrity/consistent inputs
- Lack of documentation of inputs used

AI Within The SEC

Oversight

- Increasing detection capabilities

Exams

- Identify high-risk firms or activities
- Helps with prioritization of exams
- Surface outliers or anomalies

Market Surveillance/Risk Detection

- Detect fraud/market manipulation
- Looking for patterns in trading

Analysis of Filings

- Whether inconsistent or misleading

Questions?

Thank You!