



# Federal Bar Association

## Securities Law Section



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## Newsletter

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### **The SEC is Kicking Off 2022 With a Renewed Focus on the Private Funds Industry**

Private funds should be prepared for increased oversight from the Securities and Exchange Commission, following a landmark year of enforcement cases. In 2021, the Commission brought 159 enforcement actions against registered investment advisors or investment companies, amounting to 23 percent of the total agency cases.<sup>1</sup> Indeed, the SEC brought more enforcement actions against registered investment advisors and companies than any other class of registrant last year. We expect—and have already seen—the SEC continue to be active in its enforcement against private funds this year.

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### **FINRA Fines Credit Suisse \$9 Million for Violating Customer Protection Rule**

FINRA has fined Credit Suisse Securities \$9 million for violating provisions of the SEC's so-called "Customer Protection Rule," which requires firms to safeguard their customers' investment assets. The regulator said the US broker/dealer (B/D) subsidiary of Credit Suisse Group failed to maintain possession or control of billions of dollars of fully paid and excess margin securities it carried for customers, as required by law. It also said the firm failed to accurately calculate the amount of cash or securities it was required to maintain in a special reserve bank account.

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### **SEC regulatory blitz begins with proposals to tighten rules on hedge funds, private equity**

The Securities and Exchange Commission voted to propose new regulations requiring private investment advisers, like private equity and hedge funds, to more frequently report to the government when they suffer large investment losses or redemptions and other adverse events. The new proposal is the first in what analysts expect to be a busy year of rulemaking for the markets regulator, with Chairman Gary Gensler eager to expand the agency's oversight to previously unregulated corners of the financial services industry, and to require public company disclosure of risks related to climate change, workforce diversity and management and cybersecurity.

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### **The CFTC and 27 State Securities Regulatory Agencies Charge Los Angeles Area Precious**

The Commodity Futures Trading Commission and 27 state securities regulatory agencies that are members of NASAA announced the filing of a joint civil enforcement action in the U.S. District Court for the Central District of California against a precious metals dealer and its owner for orchestrating a \$68 million fraudulent scheme targeting elderly persons nationwide. The complaint charges defendants Safeguard Metals LLC and its principal, Jeffrey Santulan a/k/a Jeffrey Hill with executing an ongoing nationwide fraud that solicited and received approximately \$68 million in investor funds to purchase precious metals and fraudulently overpriced silver coins.

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### **Winklevoss-Owned Gemini Galactic Snags FINRA Broker-Dealer Approval**

Gemini Galactic Markets, part of the Winklevoss twins' crypto conglomerate Gemini, has been approved for FINRA membership and with it the ability to operate as a broker-dealer registered with the SEC. The approval allows Gemini Galactic to operate an alternative trading system (ATS), which will facilitate the trading of "digital asset securities," Gemini said, adding that such assets are subject to U.S. securities laws, like traditional stocks and bonds are, and therefore can be bought and sold only through a licensed broker-dealer.

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