

Derivatives & Structured Products

Winston represents swap dealers, major swap participants, financial intermediaries, hedge funds, national exchanges, and end-users in a broad array of derivative transactions ranging from highly structured transactions to more traditional trading or hedging transactions, and in regulatory and enforcement issues related to commodities and derivatives.

We have substantial experience structuring, documenting, and enforcing both exchange-traded and over-the-counter (OTC) derivatives covering a variety of underlying markets, including energy, currency, commodities, credit, and equity derivatives.

Our practice covers swaps, repurchase agreements, futures, prime brokerage, and securities and commodities lending agreements, among other types of transactions. The practice also includes significant representations of major market participants in regulatory investigations and enforcement actions, and in class actions that arise out of enforcement proceedings.

The collective experience of the attorneys comprising our derivatives and structured products group is unique. The team includes attorneys who have worked as in-house counsel for the trading desks of large banks and hedge funds as well as attorneys who have structured and documented OTC derivatives before current industry documentation was standardized.

Our team with the firm's commodities and energy practitioners in physical transactions and other trading activities. We also regularly call upon the firm's significant litigation, tax, broker-dealer, and restructuring capabilities to assist clients with the development, documentation, regulatory compliance, and enforcement of novel and structured derivatives and structured products. The strength of our related practices, the depth of our experience, and the range of our client base in this area provide us with a unique and significant competitive advantage that we leverage in our clients' favor.

Key Contacts

Daniel Bley

Areas of Focus

Controversies

We have successfully represented clients in controversies arising from derivatives transactions, including in various federal and state court proceedings involving defaulted transactions.

Futures & Other Exchange Traded Derivatives

Our team has considerable experience advising clients on exchange trading and clearinghouse issues, as well as the implications of trading on swap execution facilities. We assist clients in complying with CFTC, CME Group, and ICE regulations, including margin, clearing, notice, and record keeping requirements. We regularly help clients file Form 40s and other reports required under the CFTC's large trader and ownership and control reporting rules. We advise market participants on other CFTC compliance issues, such as analyzing position limits rules that may be applicable to agricultural and physical commodities, and considering how the rules of other federal agencies (e.g., FERC, SEC, the banking regulators) can impact trading activities.

Structured Products

We represent major money-center banks, hedge funds, and asset managers (including several of the leading participants in the tender option bond market) in structuring and documenting highly customized and structured derivatives. In this area, our experience includes structured risk retention financings; structured vehicles for synthetic ownership of assets often on a leveraged and tax-efficient basis; regulatory capital-driven structured transactions; options over managed accounts of equity portfolios; credit linked notes; and synthetic CLOs and CDOs. Our attorneys also handle cross-border structured repurchase transactions, usually to achieve certain tax goals.

Regulatory Enforcement & Class Actions

We regularly represent major national securities and commodities exchanges, investment banks, hedge funds, Fortune 100 corporations, privately held entities, and individuals in investigations and related enforcement proceedings by the CFTC, FERC, FTC, state attorneys general, and self-regulatory organizations across the full panoply of trading, compliance, and related regulatory issues. Our attorneys also regularly act for clients in class actions, other private civil litigation, and arbitrations arising from enforcement proceedings or commercial aspects of the clients' trading businesses.

We have undertaken dozens of internal investigations relating to trading operations of our clients and provided integral assistance to clients in the development of their trading compliance.

Restructuring & Insolvency

We are actively involved in restructuring OTC derivatives and structured products that have fallen victim to the extraordinary market conditions of recent years. In many of these transactions, while we were not involved in the original transaction, we became involved because of the creative solutions that we are able to suggest based upon the breadth and depth of our experience in the derivatives markets. For instance, our restructuring efforts allowed a client that was party to a synthetic CLO to avoid substantial loss on a forced sale of underlying assets and to retain significant upside potential upon the return of relevant markets to normal.

[Learn More](#)

Related Capabilities

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Restructuring & Insolvency

Structured Finance

Oil & Gas

Energy Transition

Resources

[Let's Talk Lending Podcast](#)

Related Insights & News

BLOG

CFTC Chairman Clarifies Position on Regulation of Digital Assets

MAY 26, 2023

BLOG

Event-betting Platform Polymarket to Pay \$1.4 Million U.S. Fine

JANUARY 12, 2022

WEBINAR

Current Issues in Derivatives – April 2021

APRIL 14, 2021

CLIENT ALERT

CFTC Finally Finalizes Expansion to Position Limits Regime

OCTOBER 15, 2020

WEBINAR

Current Issues in Derivatives – July 2020

JULY 22, 2020

WEBINAR

COVID-19: Current Issues in Derivatives

APRIL 22, 2020

WEBINAR

Winston Attorneys Discuss Current Issues in Derivatives

JULY 31, 2019

RECOGNITIONS

Winston & Strawn Recognized in *The Legal 500 U.S.* 2019

MAY 30, 2019

SEMINAR/CLE

Winston Hosts Current Issues in Derivatives

MAY 22, 2019

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Current Issues in Derivatives

JANUARY 16, 2019

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Current Issues in Derivatives

SEPTEMBER 12, 2018

RECOGNITIONS

Winston & Strawn Recognized in *The Legal 500 U.S.* 2018

MAY 30, 2018