



Ethan L. Silver

Partner
Chair, Broker-Dealer Practice

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Ethan is a recognized leader in the representation of broker-dealers in regulatory, enforcement, and compliance matters related to federal and state securities laws and regulations, and the rules of self-regulatory organizations such as the Financial Industry Regulatory Authority (FINRA). He also spearheads an emerging practice representing regulated financial technology companies, including mobile-first brokerage platforms, robo-advisers and cryptocurrency focused businesses.

The regulatory portion of Ethan's work focuses on advising broker-dealers on formation issues, including guiding them through obtaining FINRA membership and the state registration process. He also advises clients on how to obtain FINRA approval of continuing membership applications for changes of ownership and for material changes to their businesses.

Ethan counsels broker-dealers on compliance with Security and Exchange Commission (SEC) regulations and related FINRA rules, including:

- Net capital and customer protection rules
- Trading and reporting rules
- Foreign broker-dealer/cross-border requirements
- Books and records requirements
- ATS formation and operation
- Rules relating to advertising and sales materials
- Margin rules
- Finder issues and related fee payment/splitting issues

Ethan also guides clients through SEC and FINRA examinations, and helps them develop and update written supervisory procedures and compliance manuals. Financial institutions benefit from his advice on compliance with anti-money laundering regulations and related issues.

Ethan regularly counsels clients on whether they require broker-dealer registration, and assists them in obtaining interpretive guidance and no-action relief from the SEC, FINRA, and the states. He co-authored the "M&A Broker No-Action Letter" granted by the SEC, which permits M&A brokers to receive transaction-based compensation without registering as broker-dealers.

On the enforcement side of his practice, Ethan advises clients on a range of proceedings with the SEC, FINRA, and state regulatory authorities, and he regularly prepares and defends witnesses in:

- FINRA on-the-record interviews
- SEC testimony connected with investigations relating to allegations of fraud, failures to supervise, and sales practice violations
- Form U4 disclosure issues and potential MC-400 applications
- Trading and reporting issues

HONORS & AWARDS

> **The Legal 500 - USA (2017)**

Recognized in the area of Investment Fund Formation and Management – Alternative/Hedge Funds as a Broker Dealer Specialist

NEWS & INSIGHTS

Publications

> August 7, 2020

"FINRA: An Unnecessary, Unqualified Digital Asset Regulator," *Cointelegraph*

Ethan L. Silver, William Brannan, Alexander D. Zozos

- > July 21, 2020
"Could Compound's Governance Token COMP Be Deemed a Security?," *Cointelegraph*
Ethan L. Silver, William Brannan
- > June 17, 2020
"Reg BI Has Broader Scope Than Many Think," *WealthManagement.com*
Ethan L. Silver
- > April 21, 2020
"Form CRS Drafting Guide and Template," *Investment Management Client Alert*
Ethan L. Silver, Lauren A. Schwartz, Alexander D. Zozos
- > April 21, 2020
"SEC and FINRA Provide Reg. BI and Form CRS Guidance as the Implementation Date Approaches," *Investment Management Client Alert*
Ethan L. Silver, Lauren A. Schwartz, Alexander D. Zozos
- > January 27, 2020
"Key Takeaways From SEC's Reg. BI Frequently Asked Questions," *Investment Management Client Alert*
Ethan L. Silver, Lauren A. Schwartz, Alexander D. Zozos
- > January 22, 2020
"FINRA 2020 Risk Monitoring and Examination Priorities Letter," *Investment Management Client Alert*
Ethan L. Silver, William Brannan, Brian Nistler, Lauren A. Schwartz, Alexander D. Zozos
- > January 16, 2020
"SEC's OCIE Releases 2020 Examination Priorities for Investment Advisers, Broker-Dealers, and Other Financial Industry Professionals," *Investment Management Client Alert*
Ethan L. Silver, Scott H. Moss, David L. Goret, Lauren A. Schwartz, Brian Nistler
- > January 9, 2020
"FINRA to Broker-Dealers Gearing Up for Regulation BI, "Don't Panic-Prepare!," *Investment Management Client Alert*
Ethan L. Silver, Lauren A. Schwartz, Alexander D. Zozos
- > October 17, 2019
"FINRA Provides Guidance on Regulation Best Interest and Form CRS," *Investment Management Client Alert*
Ethan L. Silver, Lauren A. Schwartz, Alexander D. Zozos
- > September 29, 2019
"Is XRP a Security? We May Never Know," *Cointelegraph*
Ethan L. Silver, William Brannan
- > September 6, 2019
"SEC Further Clarifies Proxy Voting Responsibilities of Investment Advisers," *Investment Management Client Alert*
Scott H. Moss, David L. Goret, Ethan L. Silver, Lauren A. Schwartz
- > February 4, 2019
"FINRA 2019 Monitoring and Examination Priorities Letter," *Investment Management Client Alert*
Ethan L. Silver, William Brannan, Brian Nistler
- > January 7, 2019
"SEC's OCIE Releases 2019 Examination Priorities for Investment Advisers, Broker-Dealers, and Other Financial Industry Professionals," *Investment Management Client Alert*
Ethan L. Silver, Scott H. Moss, Joseph S. Hendricks
- > May 9, 2017
"Market Trends: FINRA," *Lexis Practice Advisor*
Ethan L. Silver, William Brannan
- > April 5, 2017
"FINRA's Foray into Insider Trading," *Investment Management Client Alert*
Benjamin Kozinn, Ethan L. Silver,
- > March 1, 2017
"SEC Staff Issues Guidance Update On Robo-Advisers," *Investment Management Client Alert*
Ethan L. Silver, Scott H. Moss
- > January 26, 2017
"Year-End Developments and Compliance Checklists," *Investment Management Client Alert*
Scott H. Moss, Ethan L. Silver, Andrew E. Graw, Brian A. Silikovitz, George Danenhauer, Lesley P. Adamo
- > January 24, 2017
"FINRA Announces 2017 Examination Priorities," *Investment Management Client Alert*

Ethan L. Silver, Scott H. Moss

> September 19, 2016

"FINRA's New Limited Registration for CABs Has Limited Use and Appeal," *Investment Management Client Alert*

Ethan L. Silver, Scott H. Moss, William Brannan

> January/February 2016

"Endowed by the Crowd? Insights into the New Wave of Crowdfunding and Its Viability," *Journal of Taxation & Regulation of Financial Institutions*

Ethan L. Silver

> August 1, 2014

"What Is and Is Not Covered by the M&A Broker No-Action Letter," *Financial Fraud Law Report*

Ethan L. Silver

In the Media

> May 25, 2020

Ethan L. Silver comments in **Regulatory Compliance Watch** on the SEC's Form CRS, including the importance of documenting date of delivery, as well as the focus of the responses. The article recommends Lowenstein's **"Form CRS Drafting Guide and Template"** as a source of further information. *(subscription required to access article)*

> June 19, 2019

Ethan L. Silver is quoted in **The Wall Street Journal** discussing concerns by the Securities and Exchange Commission surrounding digital-securities firms and their ability to safeguard investors' funds and assets. *(subscription required to access article)*

> March 25, 2019

Ethan L. Silver is quoted in **ComputerWorld** and **The Economic Times** regarding blockchain and the possibility of cryptocurrencies eventually becoming a platform for consumer transactions. Silver asserts that companies must be aware of existing regulations for financial networks and how they may be applied to evolving technologies.

> March 13, 2019

Ethan L. Silver is quoted in **Financial Planning** discussing the Securities Exchange Commission's increased enforcement of regulations for robo-advisory firms. Silver affirms the necessity of strong, ongoing compliance programs as a key to minimizing the risk of penalization. He stresses the importance of firms to enhance disclosures and limit claims on social media, to ensure that they are "delivering on what was promised through marketing channels."

> February 14-15, 2019

Ethan L. Silver was featured in both **American Banker** and **Interactive Investor**, commenting on the US Securities and Exchange Commission's (SEC) reticence to approve new cryptocurrency, despite encouraging more discussion. Silver states that: "the practical realities are that there has been a lot of meetings and discussions that have yielded little progress." He agrees with SEC Commissioner Hester Peirce that the Howey Test – used by US regulators to determine what should be considered a security – is "overly broad." Silver asserts that until the SEC provides clarity on how digital assets should be custodied under its existing rules, a bitcoin exchange-traded fund (ETF) will never be approved.

> January 14-28, 2019

Ethan L. Silver is quoted in **CoinDesk**, **CoinWire**, **Invest in Blockchain**, and **XBT.net** regarding the U.S. government shutdown's effect on cryptocurrency progress on Wall Street. Silver anticipates that, should the shutdown continue, any remaining staffers would most likely reject the rule change proposal for the highly anticipated exchange-traded fund, in lieu of allowing it to be approved on a technicality.

> January 14, 2019

Ethan L. Silver is quoted in **InvestmentNews** addressing cryptocurrency market manipulation and custody as it relates to the possibility of a crypto-ETF entering the market in 2019. Silver states that the challenge for the SEC is how to integrate this new technology into the existing SEC rules.

> December 21, 2018

In an interview with **American Banker**, **Ethan L. Silver** comments on recent attempts of startups to obtain Securities and Exchange Commission (SEC) approval for security tokens issued under Reg A. Silver reflects on the continued lack of effectiveness of such filings, asserting that the SEC will need to be confident in the protection afforded by the proposed technology in order to approve crypto assets as a legitimate investment vehicle.

SPEAKING ENGAGEMENTS

> Speaker, **The Future of Digital Currencies in Relation to Increasing SEC's Attention and Regulations**, StockTwits Stocktoberfest West, Coronado, CA, September 27, 2019

> **The ABC's of Blockchain: Altcoins, Bitcoins, and Coin Offerings**, Lowenstein Sandler, January 30, 2018 (Palo Alto)

> **GC and CCO Compliance Roundtable**, New York, NY, September 27, 2016

EDUCATION

> New York Law School (J.D. 2002)

> University of Maryland (B.A. 1998)

ADMISSIONS

- > New York
- > New Jersey