

## Securities Litigation, Regulation & Enforcement

Cahill lawyers have been on the front lines of large-scale and high-profile securities litigation for nearly a century, focusing on the most prominent issues of the day. Today, we continue to handle some of the most significant litigation, regulatory and enforcement matters for both companies, from global banks to transnational businesses, and individuals, from corporate executives to board members. In what continues to be a rapidly evolving environment, clients turn to Cahill's team to devise litigation strategies, defend enforcement related inquiries and create compliance programs to defend against impending government prosecutions, securities class actions and shareholder derivative suits.

Our Securities Litigation, Regulation & Enforcement practice is top-ranked by *Chambers USA*, *The Legal 500* and *Benchmark Litigation*. *Chambers USA* calls Cahill's securities litigation team a "strong litigation practice that is well equipped to handle major commercial proceedings," with "impressive strength in large-scale class actions that sees it attract a top-notch financial client base." One client described the quality of the Cahill team to *Chambers* as "unparalleled," adding: "[T]hey are the best counsel that we deal with. They know exactly what we want in terms of style and substance, and they're absolutely excellent across the board." Another client noted that they send Cahill "high-profile and complex litigation work and they impress us every step of the way." *The Legal 500* notes that the Cahill team is known for their "great collaborative effort, great attention to detail and the ability to implement litigation strategy."

*Law360* recognized Cahill as a [2023 Banking Practice Group of the Year](#), noting Cahill's precedent-setting jury trial win on behalf of Credit Suisse in a foreign exchange markets class action, as well as the firm's extensive litigation work on behalf of financial institutions.

As a result of this trial victory for Credit Suisse, the trial team was also recognized by *The National Law Journal* in 2023 as [General Litigation Trailblazers](#), and in 2022 by *The American Lawyer* as [Litigators of the Week](#). *Law360* has also previously recognized Cahill's Securities practice as a [Practice Group of the Year](#).

Our team includes former federal prosecutors and other lawyers who joined Cahill following distinguished careers in the Department of Justice.

### Securities Litigation – Entities

We represent issuers, underwriters, bank lenders and placement agents in large-scale securities litigation throughout the world. We have represented participants in complex securities class action litigation and parallel governmental investigations involving financial exposures in the billions of dollars. Given Cahill clients often turn to the firm to represent them on bet-the-company securities litigation matters, such engagements may also span congressional and regulatory investigations, domestic and foreign bankruptcies and state court actions.

In recent years, when multiple financial institutions have been named as co-defendants in sweeping securities matters, they and their counsel – the world's largest banks and their highly-regarded law firms – have regularly asked Cahill to serve as the leader of the joint-defense groups to advance the interests of all the financial firms involved.

Our recent caseload has also included victories in rate-rigging litigation and litigation relating to so-called "dark pool" securities trading venues and high-frequency trading.

### Representative Engagements:

- Deutsche Bank together with members of its senior management team prevailing in a putative class action alleging it failed to remediate deficiencies related to its know-your-customer and other internal controls and failed to monitor certain high-risk customers, including Jeffrey Epstein, Russian oligarchs and other politically-sensitive individuals. Cahill secured dismissal of Plaintiffs' claims against the current and former CFO of Deutsche Bank, and the case against the remaining defendants continues.
- UBS in winning a jury trial of a nationwide securities class action.

- S&P Global Inc. (S&P) in litigations attempting to assert “underwriter” and “seller” liability under the Securities Act of 1933 against S&P Ratings, including obtaining dismissals in over 30 such cases and successfully defending these dismissals on appeal.
- Global investment banks that served as underwriters for Chinese firms Luckin Coffee and GSX in class actions brought by investors alleging securities fraud based on the underwriters’ disclosures, alleging they contained materially false information. In the Luckin Coffee litigation, Cahill successfully negotiated a settlement with plaintiffs in which the underwriters will pay nothing. In addition, Cahill successfully secured the dismissal of the underwriters from the GSX case.
- A joint defense group of global bank defendants in defeating a purported class action brought by plaintiffs alleging that the banks violated the antitrust laws by allegedly conspiring to manipulate ICE LIBOR.
- A joint defense group of global banks in defeating a purported class action brought by plaintiffs alleging that Credit Suisse and other banks violated antitrust laws by colluding to manipulate U.S. Treasury auctions and the pricing of Treasury securities in the when-issued market, and that the banks and certain trading platforms engaged in a group boycott to prevent exchange-style trading of Treasury securities in the secondary market.
- A joint defense group of global financial institutions in defeating a purported class action brought by plaintiffs alleging that Credit Suisse, other bank defendants, and certain traders violated the antitrust laws in connection with trading in the multi-trillion dollar market for U.S. dollar-denominated SSA bonds.
- Credit Suisse in four lawsuits (three comprising a purported consolidated class action and one brought by an opt-out plaintiff) which alleged that Credit Suisse violated the federal securities laws by failing to disclose adequately the risks associated with its offering of Velocity Shares Daily Inverse VIX Short Term ETNs. Cahill has also prevailed on behalf of Credit Suisse in class action cases tied to its Velocity Shares Daily Inverse VIX Short Term ETNs and its Velocity Shares Daily Inverse VIX Medium Term ETNs (ZIV ETNs).
- Credit Suisse in defeating a purported class action alleging violation of the antitrust laws in trading in the multitrillion-dollar market for U.S. dollar-denominated supranational, sovereign, and agency (SSA) bonds.
- S&P Global in five related actions alleging that S&P made misrepresentations in connection with the rating of a fund that invests in life settlements.
- Deutsche Bank Trust Company Americas (DBTCA) in the United States Court of Appeals for the Second Circuit, obtaining an affirmance of (1) an order entering summary judgment in Deutsche Bank’s favor arising from a \$2.5 million claim for breach of contract against Rado Limited Partnership (Rado), and (2) dismissing counterclaims by Rado for approximately \$10 million for breach of contract, aiding and abetting a breach of fiduciary duty, and gross negligence.
- DBTCA in securing a dismissal in the United States District Court for the Northern District of Illinois for a suit brought against DBTCA by Plaintiffs Insight Securities, Inc. and Intelligenics, Inc. alleging negligence, conversion and contribution in connection with the transfer of securities alleged to have been funneled among various entities as part of a third-party’s long-running Ponzi scheme.
- Credit Suisse in various lawsuits stemming from the well-publicized collapse of two of its clients, Greensill Capital and Archegos Capital Management, including a putative class action alleging Credit Suisse and certain current and former officers alleging that defendants violated the US securities laws by touting CS’s risk management practices while ignoring “red flags” and allowing high-risk clients (including Archegos) to take on excessive leverage.
- Deutsche Bank in a multimillion-dollar interpleader action in the Southern District of New York stemming from a dispute relating to the terms of a credit default swap and related notes, in which the court ruled Deutsche Bank was entitled to receive nearly all of the disputed funds as credit protection payments, leading to very favorable settlement on behalf of Deutsche Bank.

### **Securities Litigation – Individuals**

Cahill is regularly called upon to defend company directors, officers, employees and affiliates, both as individuals and jointly, resulting in a long track record of success for our clients. The matters – regularly described as sophisticated

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and complex – have included some of the most closely-watched securities litigation cases in recent years, often involving novel prosecutorial theories and issues and innovative defense on behalf of our clients.

Recent engagements include representing international banking executives, CEOs, individual financial traders accused of manipulating markets, asset managers accused of fraud, an executive of an international energy company in a Congressional investigation and a former KPMG audit partner, among many others.

Corporate financial statements are not the only company communications which may draw unwanted attention from regulators and potential plaintiffs. More recently, enforcement agencies have pursued cases against individual company executives for public statements of all types, in a variety of venues and formats. Cahill partners have been engaged to lead some of the most prominent such matters in a generation.

#### **Representative Engagements:**

- A client facing investigations being conducted by the U.S. Attorney's Office for the Southern District of New York and the SEC into insider trading and potentially false disclosures in connection with a potential and high-profile SPAC combination.
- The former co-managing partner of a trade finance investment fund alleged to have cheated investors out of hundreds of millions of dollars. DOJ alleged it was, "a sophisticated, decade-long scheme" to defraud the "investment advisory fund clients and investors."
- Four individuals in connection with ongoing SEC and DOJ investigations, an SEC enforcement action in the Southern District of New York, and a Receivership relating to allegations of securities law violations in connection with more than \$400 million of investments in pre-IPO investment funds operated by the company they led.

#### **Securities Litigation – Corporate Issuer Representations**

- Cahill defends companies large and small, public and private, across a broad spectrum of criminal securities matters and related complex civil securities litigation, including some of the highest-profile and most closely watched corporate matters in recent years. Civil litigation in the form of derivative matters often follows government inquiries, and Cahill's securities litigation team works in close collaboration with our class action practice to efficiently and effectively manage clients' litigation strategy needs, no matter the venue or plaintiff.
- The restatement of financials may have significant consequences for both the company and its executives, including regulatory inquiries and shareholder litigation. Cahill has considerable experience guiding clients through this delicate process, helping to manage filings, engage regulators, and grapple with potential follow-on concerns, including resultant litigation.

#### **Securities Regulation & Enforcement – Financial Institutions**


With decades of institutional knowledge, Cahill offers a comprehensive understanding of how investment banks, asset managers and hedge funds operate, and the financial products they offer. Our partners offer hands-on, senior-level experience, including individuals who have sat on both sides of the regulatory negotiating table.

Our team has deep experience engaging the SEC and other financial regulators, including the CFTC, FINRA and other state, federal and self-regulatory organizations and has led scores of engagements with overseas and transnational regulators. Our lawyers also have extensive experience conducting multinational investigations involving alleged violations of the Foreign Corrupt Practices Act, The Office of Foreign Assets Control regulations, other commercial anti-bribery laws and the Bank Secrecy Act.

We are also called upon to assist in resolving complex financial disputes through alternative dispute resolution and in private proceedings.

#### **Representative Engagements:**

- Multiple global financial institutions in the SEC and CFTC street sweep focusing on compliance matters tied to senior executives' and employees' usage of personal devices to send business-related communications. This matter represented the most significant enforcement action the SEC and CFTC undertook in 2022.
- Multiple global financial institutions in numerous customer and industry arbitrations before FINRA, including for example on issues related to margin trading.

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- A global bank and three of its employees in a FINRA enforcement and market regulation investigation into the bank's best execution practices.
  - S&P Global Inc. (S&P) in regulatory inquiries relating to S&P's ratings of structured finance securities, following the financial crisis.