K&L GATES



# Fund Tokenization

## Regulation, market structure and the road to tokenized ETFs

K&L Gates LLP

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# Learning Objectives

## CLE OVERVIEW

- Distinguish tokenized fund shares from stablecoins, crypto assets and third-party synthetic tokens
- Understand the emerging SEC framework: tokenized securities guidance, transfer-agent modernization, exemptive orders and the innovation exemption
- Identify the principal registered-fund issues under Sections 17, 18 and 22, Rule
- 22c-1, transfer-agent rules and exchange-market structure
- Survey current registered, private and non-U.S. tokenized fund models and the service-provider ecosystem
- Assess the design choices, regulatory path and operational challenges for a tokenized ETF

# Roadmap

## 1

### Regulatory Foundation

What tokenization changes, what it does not, and the SEC's new pathways

## 2

### The Market Today

Registered funds, including money market funds, private funds, non-U.S. structures and operating models

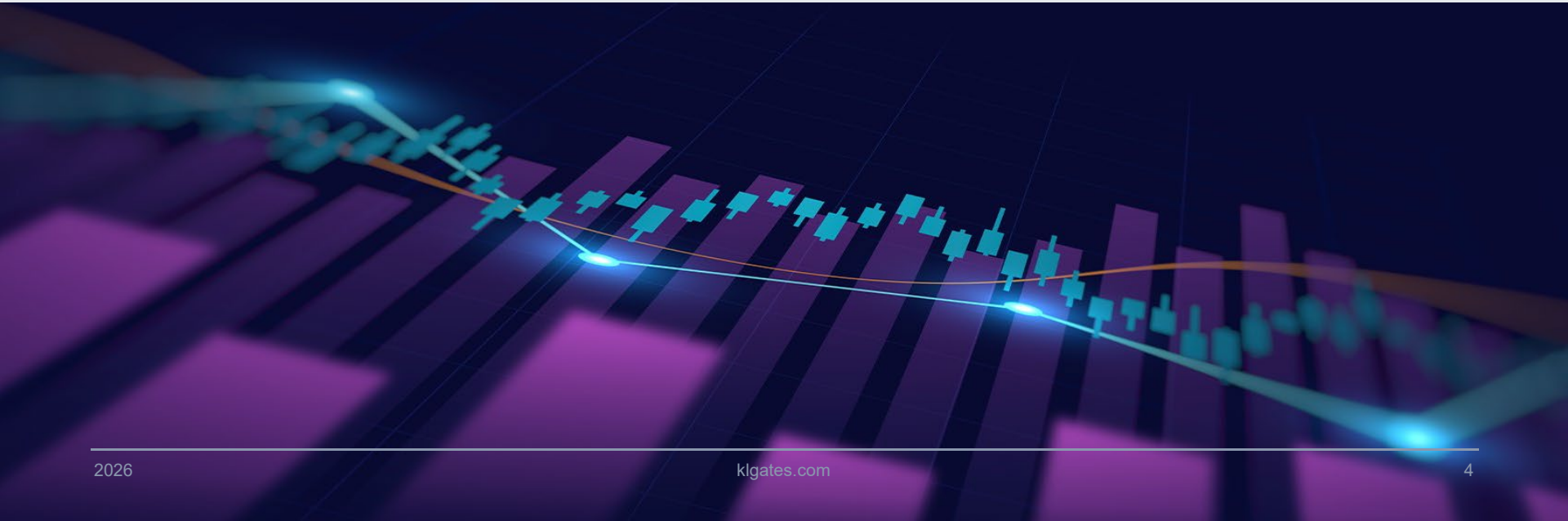
## 3

### What Comes Next

Tokenized ETFs, unresolved legal conditions and the near-term regulatory agenda

# Regulatory Foundation

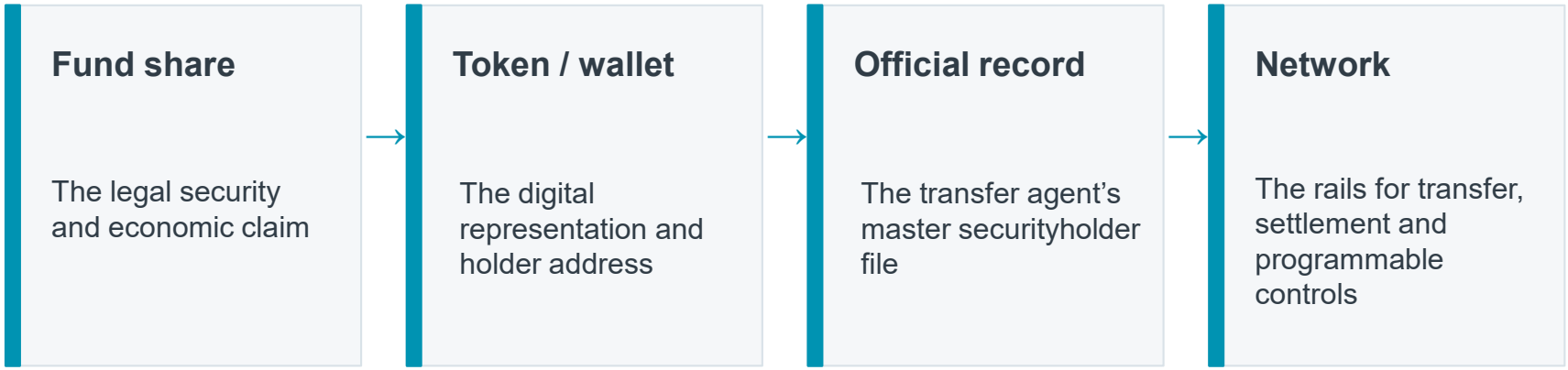
The legal character of the share remains; the recordkeeping and transfer system changes



# Tokenization in One Slide

FOUNDATIONS

## A tokenized fund share is a fund share whose ownership is recorded, in whole or in part, on a blockchain or other distributed ledger.




*Key distinctions: (1) Issuer-sponsored tokenization can transfer the actual security. (2) A third-party token may instead create a separate claim, linked security or security-based swap.*

# What Tokenization Changes and What It Does Not

FOUNDATIONS

## Changes the operating rails

Ownership records may be exclusively onchain; transfers may occur 24/7; settlement can be atomic; compliance rules can be embedded in smart contracts; wallets and keys become part of the control environment.

## Does not change the legal wrapper

The Securities Act, Exchange Act, Investment Company Act, Advisers Act, state law, tax, AML/KYC and contractual rights continue to apply. The economic substance controls.

**A blockchain is a recordkeeping and transfer technology, not a regulatory exemption.**

# The Transfer Agent Proposal

REGULATORY LANDSCAPE

## September 2026 proposal: modernization, not deregulation

- Updates rules last substantively revised in the late 1970s and early 1980s
- Expressly accommodates electronic and blockchain-based recordkeeping and uncertificated securities
- Modernizes master securityholder-file terminology and recordkeeping expectations
- Adds turnaround, risk-management, compliance and restrictive-legend requirements
- Preserves the transfer agent as the accountable operator maintaining the official ownership record

### Practical significance

The proposal validates blockchain as a permissible tool, but it also confirms that tokenization does not eliminate regulated recordkeeping, reconciliation, controls or transfer-agent responsibility.

# WisdomTree: 24/7 Trading Within a Registered Fund

## MATTER-SPECIFIC RELIEF

### Relief granted

Sections 6(c) and 17(d); exemptions from Section 22(d), Rule 22c-1 and joint-transaction restrictions.

### Operating model

A covered dealer buys and sells government MMF shares as principal at $1.00, plus or minus permitted dealer compensation.

### Why it matters

The order permits continuous principal dealing and rapid onchain settlement without abandoning Rule 2a-7 or the registered-fund wrapper.

***The order is conditional and product-specific. It is not a general authorization for every registered fund to trade around the clock at a fixed price. In addition, the Commission was clear that the stable $1 value was an important factor in approving the relief.***

# ARK Venture Fund: Tokenized and Exchange-Traded Classes

## MATTER-SPECIFIC RELIEF

The September 2026 order permits a registered interval fund to add two secondary-market classes:

### Exchange Class

Listed on a national securities exchange.

### Tokenized Class

Traded on one or more ATSs or quoted on another quotation medium.

- Relief from Sections 18(a)(2), 18(c) and 18(i) addresses multiple-class and voting issues
- Relief under Sections 6(c), 23(c), 17(d) and Rule 17d-1 integrates repurchases and class economics
- The order shows tokenization can coexist with a registered closed-end fund, but only through a carefully conditioned class structure

# The Innovation Exemption: What It Is

NEW TRADING PATHWAY

**A temporary, conditional Exchange Act pathway for permissioned trading of tokenized NMS stocks (including ETFs) through automated market maker liquidity pools.**

### Venue relief

A Tokenized Securities Venue (TSV) receives relief from the definition of “exchange.”

### Liquidity-provider relief

Certain firms supplying proprietary tokenized stock liquidity receive relief from the definition of “dealer.”

### Scope

Issuer-sponsored and qualifying third-party tokenized NMS stock, but not synthetic linked securities or security-based swaps.

### Guardrails

Permissioned participants, specified disclosure and reporting, smart-contract controls and conditions designed to protect investors and issuers.

# Innovation Exemption: Registered Fund Issues

## INVESTMENT COMPANY ACT OVERLAY

### Section 18

A tokenized class can raise senior-security, class-voting and equal-rights questions, especially where transferability or market access differs. The SEC expressly declined to include relief from these provisions.

### Section 22 / Rule 22c-1

Open-end funds still face forward-pricing, redeemability and distribution-price requirements. Around-the-clock secondary pricing can diverge from daily NAV mechanics.

### Third-party tokenization

Issuer-unaffiliated tokens can create operational, disclosure and investor-confusion risks even where the underlying ETF share remains unchanged. This challenge currently exists where non-US venues issue tokenized versions of US ETFs (often with tokens named after the underlying US ETFs).

### Objection process

An ETF that does not want its shares tokenized must monitor venue onboarding and use the order's issuer-objection process. Governance and escalation should be decided before a request arrives.

# The Legal Issue Map

## REGISTERED FUND CHECKLIST

### Share status

Actual share, receipt, entitlement or synthetic exposure?

### Official ledger

Which record legally controls, and how are ledgers reconciled (and by whom)?

### Pricing

NAV, secondary price, dealer price and 24/7 valuation windows and related arbitrage challenges

### Transfer & redemption

Wallet transfers, fund redemptions and intermediary processing

### Distribution

Broker-dealer, ATS, exchange, AMM and principal-dealer roles

### Custody & keys

Who controls keys, and what happens if access is lost?

### Affiliates

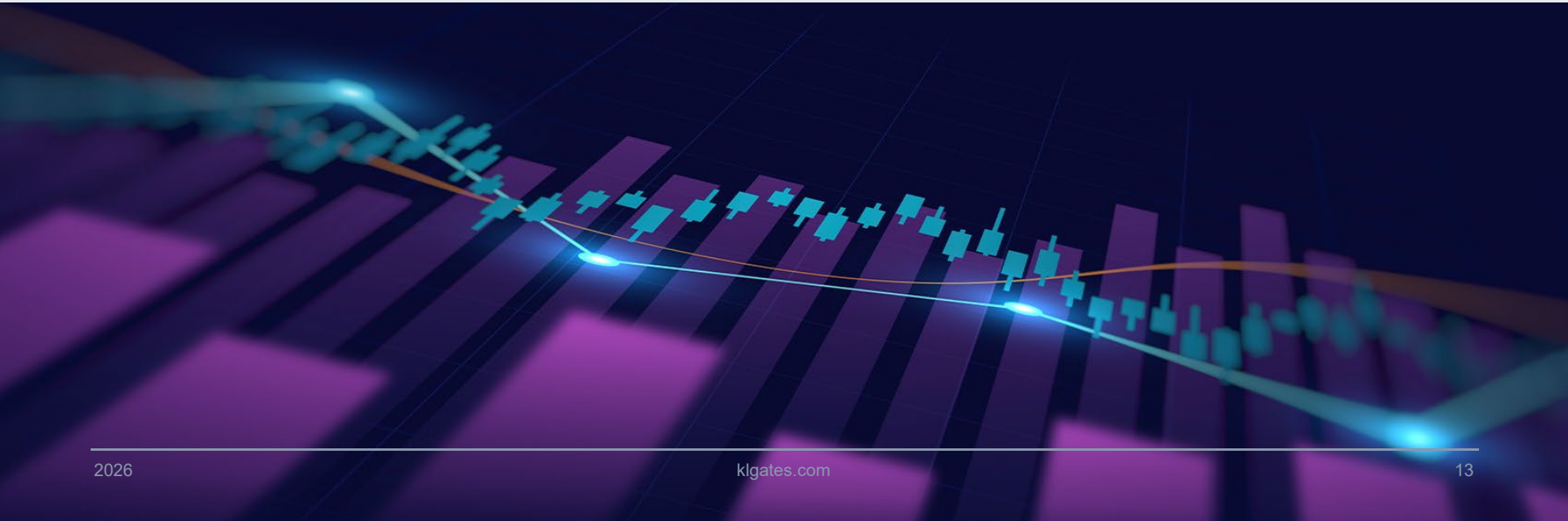
Sections 17(a) and 17(d), affiliated dealers, TAs and platforms

### Disclosure & controls

Cybersecurity, forks, outages, code changes, AML/KYC and tax

# The Market Today

Money market funds, controlled distribution and the legal operating model



# Why Money Market Funds Lead

## THE FIRST LARGE-SCALE USE CASE

**Money market funds combine a stable share price, daily liquidity and short-duration assets with a practical need to move cash-like value outside traditional operating hours.**

### Yield-bearing cash alternative

Unlike current payment stablecoins in the US, MMF shares can pass through portfolio income, subject to the fund's terms and securities-law protections.

### Collateral mobility

A tokenized share can be pledged or transferred without first redeeming to cash, potentially reducing friction and facilitating intraday liquidity needs.

### Rule 2a-7 discipline

For U.S. registered MMFs, tokenization does not displace portfolio, liquidity, valuation or stable-NAV requirements.

### Operational fit

A $1.00 NAV and a short-duration portfolio reduce, but do not completely eliminate, pricing and liquidity tension outside fund processing hours.

**The legal question is whether the fund, dealer, transfer agent, custodian and secured party can recognize the movement of a token with finality.**

# AML/KYC: Why Tokenized Funds Remain Walled Gardens

**U.S. tokenized funds generally do not permit unrestricted bearer-like transfers. The prevailing model links an identified investor to an approved wallet and blocks transfers to unapproved addresses.**

### Customer identification

The transfer agent, broker-dealer or platform performs AML, KYC/CIP and sanctions screening before an investor or intermediary can hold shares.

### Whitelisted wallets

Smart-contract restrictions permit movement only between approved addresses. Arca and the pending TBIL model expressly use approved or whitelisted wallets.

### Ongoing controls

Systems must address sanctions changes, suspicious activity, wallet compromise, freezes, reversals and the link between an address and the legal holder.

### Why interoperability stalls

Each sponsor or intermediary may repeat onboarding and retain compliance responsibility. Approval in one ecosystem or blockchain is not automatically portable to another.

**Possible next step: portable identity credentials and broader reliance among regulated institutions, while preserving retrievable identity and continuous sanctions screening.**

# Registered Funds: Live Models

## U.S. MARKET

| | |
|---|---|
| **Franklin OnChain U.S. Government Money Fund** | Rule 2a-7 MMF; BENJI token; transfer agent-integrated blockchain record available across multiple public networks including Stellar, Avalanche, Ethereum, Solana and others |
| **WisdomTree WTGXX** | Rule 2a-7 MMF; affiliated dealer model; 24/7 principal trading under exemptive relief |
| **Arca U.S. Treasury Fund** | Registered closed-end interval fund; ArCoin shares transferable among approved wallets |
| **Goldman Sachs / BNY mirror model** | Traditional MMF shares paired with blockchain-based mirror tokens for institutional mobility |
| **ARK Venture Fund** | Interval fund order permits both exchange-listed and tokenized secondary-market classes |

**There are a number of other examples of tokenized share classes of money market funds, and many more in the works**

# Private Funds: Faster to Launch, Narrower Access

## U.S. AND GLOBAL INSTITUTIONAL MARKET

### BUIDL | BlackRock

Private institutional liquidity fund; Securitize platform; multi-chain; collateral and stablecoin-reserve use cases.

### OUSG | Ondo

Qualified-investor Treasury exposure, with BUIDL and other short-duration instruments underneath.

### ACRED | Apollo / Securitize

Tokenized feeder into registered private-credit interval fund; lower minimum and DeFi connectivity.

### VBILL | VanEck

Private Treasury product distributed through Securitize across multiple blockchains.

### MONY / JLTXX | J.P. Morgan

Tokenized money funds using Kinexys infrastructure; cash or stablecoin entry and exit.

### Private equity and credit feeders

Hamilton Lane, KKR and others use tokenized feeders to streamline subscriptions and transfer controls.

# Outside the United States

## CROSS-BORDER MODELS

### Ondo USDY

Non-U.S. Treasury token designed for broader transferability after an initial holding period.

### UBS uMINT

Tokenized money-market investment fund on UBS Tokenize, distributed through DigiFT in Singapore.

### Janus Henderson Anemoy

BVI Treasury fund built with Centrifuge and offered across multiple networks.

### Circle / Hashnote USYC

Bermuda structure holding Treasuries and repo; widely used as institutional onchain cash.

### European and Asian fund regimes

Luxembourg, Singapore, Hong Kong and other centers increasingly permit DLT-based fund issuance or registers, but distribution rules remain local.

# The Legal Architecture Must Come First

## DESIGN DECISIONS

### 1. What is the investor holding?

A fund share, a security entitlement, a receipt or a separate security linked to an underlying share.

### 2. Which record controls?

The transfer agent's master file, DTC's books, a blockchain record or a defined hierarchy among synchronized records.

### 3. Who may hold and transfer?

Direct investors, regulated intermediaries or both; personal wallets or only institutional wallets; domestic or cross-border access.

### 4. How does cash move?

Bank rails, stablecoins or another tokenized asset, and whether delivery-versus-payment is legally and operationally final.

### 5. What activity is trading?

A record transfer is not necessarily trade execution. Exchange, ATS, broker-dealer and clearing rules must be mapped separately.

### 6. Who can reverse or freeze?

Authority for sanctions, court orders, mistakes, fraud and lost keys must be written into governing documents and code.

# No Single Provider Solves the Legal Problem

## RESPONSIBILITY ALLOCATION

### Fund and board

Approve the structure, disclosures, service-provider arrangements, compliance framework and oversight process.

### Transfer agent

Maintain the authoritative holder record, process transfers and corporate actions, reconcile ledgers and administer freezes or corrections.

### Distributor / broker-dealer / ATS

Control offers, sales and trade execution; perform customer onboarding; address communications and market rules.

### Custodian and wallet provider

Safeguard portfolio assets or tokenized positions and keys; define control, recovery and insolvency treatment.

### Technology platform

Operate smart contracts and network interfaces, but contracts do not displace statutory duties of regulated entities.

### Administrator, auditor and counsel

Reconcile NAV and holder records, test controls, evaluate accounting and legal conclusions and support board reporting.

**Securitize and other providers are building “full stack” platforms that incorporate registered ATS, transfer agency, broker-dealer and RIA capabilities**

# DTCC: A Controlled Tokenization Pilot Authorized by the SEC

MARKET INFRASTRUCTURE

**DTC's preliminary model records security entitlements to assets already held at DTC. Registered ownership remains with Cede & Co.; participant entitlements may move between DTC-registered wallets.**

### Limited authorization

The staff no-action position applies to a preliminary, voluntary service and expires three years after launch.

### Eligible assets

Russell 1000 securities, U.S. Treasuries and ETFs tracking major indices are within the stated pilot scope.

### Registered wallets

Only DTC participants may register wallets; tokens may move only to registered wallets.

### Official records

LedgerScan tracks token movement and constitutes DTC's official books and records for tokenized entitlements.

### Controls

Wallet screening, OFAC checks, distribution controls, reversibility and resilience standards are express conditions.

### Important limit

DTC assigns no collateral or settlement value to tokenized entitlements for its own risk-management calculations.

# The Core Legal and Control Questions

**RISK ALLOCATION**

## Ownership, control and insolvency

- Who is the legal shareholder and what evidence proves ownership?
- Can a transfer be final, reversed or frozen, and by whom?
- How are lost keys, compromised wallets and erroneous transfers handled?
- What happens if the blockchain, platform, custodian or transfer agent fails?

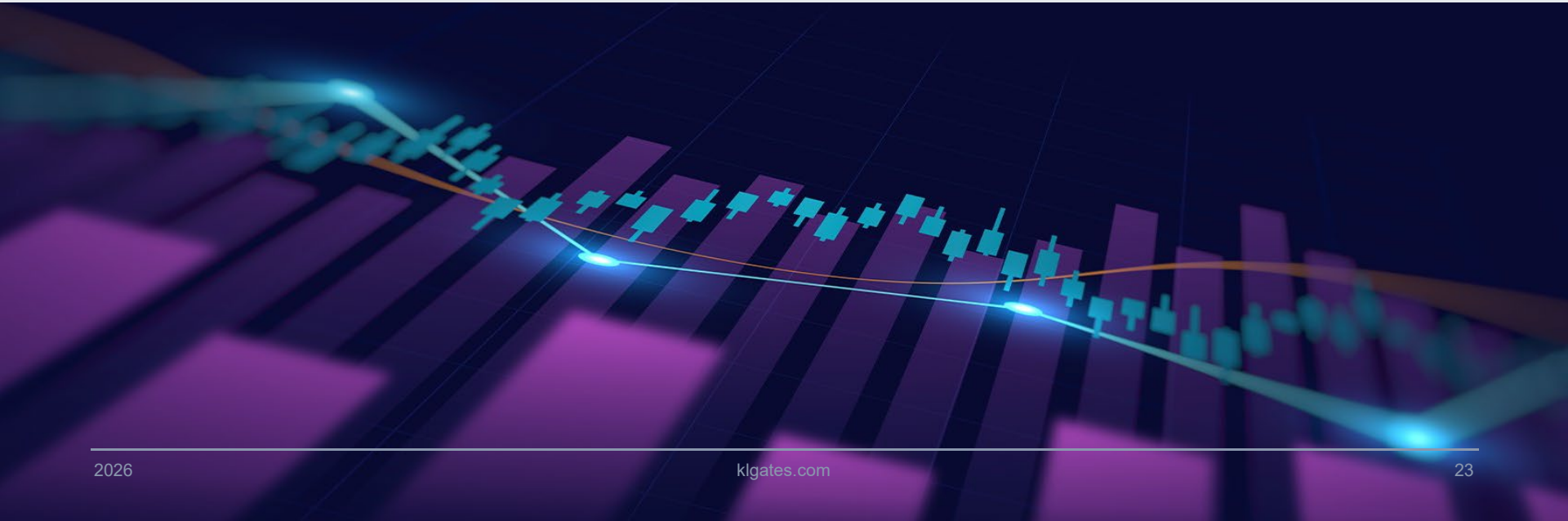
## Fund, market and compliance rules

- Do 24/7 transfers conflict with NAV, redemption or distribution-price rules?
- Are affiliate transactions, dealer activity or joint arrangements implicated?
- Can AML/KYC, sanctions and suspicious-activity controls follow the asset across platforms?
- Do disclosure and marketing accurately describe liquidity, transferability and settlement?
- Do the tokens represent a separate share class or do they merely represent a different way to evidence ownership of an existing share class?

**Code should implement the legal terms. Code should not be the only place the legal terms exist.**

# What Comes Next

Tokenized ETFs and the unresolved integration with existing market structure



# What are the Potential Benefits of Tokenized ETFs?

**The use case for tokenized ETFs rests on several of the same factors that apply to other tokenized assets – atomic settlement, facilitating collateral usage, and moving assets onchain. There are other potential benefits**

- **Expanded access to US ETFs for foreign investors**
- **Tokenized assets appeal to younger, digitally native investors**
- **Having tokenized ETFs shares recorded on the blockchain makes it easier to track ownership**
- **Tokenized assets should facilitate expanded trading hours and additional trading venues**

# F/m's TBIL Application: A Tokenized ETF Test Case

PENDING APPLICATION

**F/m and The RBB Fund sought relief to permit existing TBIL exchange-traded shares to be recorded and held in tokenized book-entry form.**

### Single economic class

Same CUSIP, rights, fees, voting and economic terms; tokenization changes the holding format.

### Rule 6c-11 remains

The ETF's portfolio, index, creation/redemption architecture and exchange listing remain in place.

### Relief requested

Sections 2(a)(32), 5(a)(1), 18(f)(1), 18(i), 22(d), 22(e), Rule 22c-1 and, as needed, Sections 17(a)(1) and (2).

### Controlled transfers

Permissioned ledger and transfer mechanics are intended to preserve fund-law protections while enabling token-aware settlement.

**The application was filed in January 2026, but there have not been any subsequent filings**

# Tokenized ETFs: The Challenge Map

## PRODUCT DESIGN

### Creation / redemption

How tokenized shares connect with APs and market makers, DTC, NSCC and in-kind baskets

### Secondary trading

Exchange hours versus 24/7 onchain transfers and price discovery

### Shareholder record

DTC fungible bulk, broker records, wallets and the transfer agent's master file

### Arbitrage

Whether 24/7 venues can remain aligned with NAV and the 4pm New York closing market price when the underlying market is closed

### Sections 18 and 22

Equal shareholder rights, redeemability, forward pricing, distribution, tokenization costs and class treatment

### Corporate actions

Distributions, splits, voting, ex- and record dates and tax reporting across rails

### Sponsor consent

Control over third-party tokenization, trading venues, branding and investor communications

### Interoperability

Conversion between book-entry and tokenized form across multiple networks

**OKXICE recently announced that on November 23, 2026, eligible US customers will be able to trade digital securities around the clock through the OKXICE TSV, including 59 ETFs**

# What Must Be Resolved Before Tokenized ETFs Scale

## LEGAL AND MARKET CONDITIONS

### One class, multiple forms

Preserve equal economic and voting rights while allowing conversion between DTC and tokenized book-entry form.

### Authoritative record

The fund, transfer agent, DTC and intermediaries need a clear hierarchy of records and reliable reconciliation.

### Trading versus transfer

After-hours wallet movement must not be confused with unregistered trading, price discovery or exchange activity.

### Arbitrage and valuation

AP and market maker access and reliable pricing remain essential; onchain trading when underlying markets are closed may produce premiums or discounts.

### AML/KYC portability

Whitelisting must become interoperable without turning the token into an unrestricted bearer instrument.

### Corporate actions and tax

Distributions, voting, splits, cost basis, withholding and information reporting must work across holding formats.

**Will market makers make markets in tokenized shares during expanded trading hours?**
**Will market depth and quality challenges lead to price dislocation or negative price discovery?**

# The Near-Term Legal Agenda

## WHAT TO WATCH

### Transfer-agent rulemaking

Whether final rules remain technology-neutral while identifying one accountable recordkeeper and workable reconciliation standards.

### AML/KYC modernization

Whether Treasury and FinCEN permit portable credentials, broader reliance and identity-resolvable networks among regulated intermediaries.

### Fund-specific relief

Whether the SEC develops repeatable conditions for MMF dealer models, tokenized interval-fund classes and tokenized ETF holding formats.

### Market-structure integration

How ATSs, TSVs, exchanges, broker-dealers, AMMs, DTC and transfer agents divide execution, clearance, settlement and recordkeeping.

### Commercial-law certainty

How UCC Articles 8 and 9, control, perfection, priority and insolvency rules apply across native, entitlement and mirror-token models.

### Cross-border recognition

Whether a token can move globally when securities distribution, AML/KYC, tax and fund rules remain jurisdiction-specific.

**Wildcard: What impact will the potential repeal of Reg-NMS Rule 611 (the order protection rule) have on execution quality and NBBO reporting, especially in light of 23/5 or 24/7 trading?**

# Key Takeaways

| | |
|---|---|
| **The share remains regulated** | Tokenization changes the record and transfer mechanism, not the legal character of the fund share. |
| **The official record is foundational** | The governing documents and operating model must state which record controls and who may correct it. |
| **AML/KYC is the immediate constraint** | Whitelisted wallets make compliant transfers possible, but repeated onboarding limits interoperability. |
| **Money market funds are the proving ground** | Stable NAV, daily liquidity and collateral demand create a strong use case, while Rule 2a-7 still governs. |
| **ETFs require market-structure integration** | The unresolved issue is how tokenized holdings fit DTC, Rule 6c-11, AP arbitrage and investor protections. |

**Questions?**

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