

## Ellen M. Wheeler

### Partner

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Chicago

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Ellen M. Wheeler represents broker-dealers, introducing brokers, commodity trading advisors, investment advisors, commercial end users, proprietary trading firms, and their employees and officers in both litigation and enforcement matters. She has defended clients in large securities class actions, in arbitrations brought by customers and employees, at administrative hearings against the Securities and Exchange Commission's Division of Enforcement, and in connection with other enforcement investigations and proceedings by the SEC, CFTC, FINRA, NFA, CME Group, and other regulatory organizations. Ellen is a partner in the firm's Securities Enforcement & Litigation as well as Securities, Commodities & Exchange Regulation Practices.

Additionally, Ellen provides regulatory counseling to clients, including assisting broker-dealers, introducing brokers, and other clients with regulatory exams, internal investigations, and compliance with new rules and regulations.

## Representative Experience

### Enforcement

- Counsel to commodity trading advisor alleged by CME Group to have engaged in manipulative trading; investigation closed with no action.
- Counsel to trader and firm in FINRA investigation of frontrunning; investigation closed with no action.
- Counsel to entity alleged by CFTC to be acting as unregistered commodity trading advisor; investigation closed with no action.
- Counsel to broker dealers and investment advisor firms in multiple regulatory investigations arising from sales of alternative investment products; investigations closed or favorably settled.
- Counsel to municipal underwriter in SEC investigation of alleged "flipping" of municipal bonds; investigation closed with no action.
- Counsel to trader and firm accused of "spoofing" by multiple CME Group exchanges; secured favorable settlement on behalf of trader, no action against firm.
- Counsel to multiple firms in position limits investigations by CFTC; all matters closed with no action.

- Counsel to multiple firms in CBOE proceedings involving alleged violations of priority rules; all matters closed with no action or with favorable settlement.
- Counsel to Investment Advisor in SEC investigation of cross-trading; investigation closed with no action.
- Counsel to commercial entity in CFTC investigation regarding EFRPs; investigation closed with no action.
- Counsel to trader in ICE investigation regarding alleged wash sales; investigation closed with no action.
- Counsel to former employee of mutual fund management company in an enforcement proceeding brought by the SEC concerning allegations of market timing; following approximately three-week hearing, client was exonerated of all charges.
- Counsel to former chief financial officer of public company in an enforcement proceeding brought by the SEC charging CFO with fraud in connection with public disclosures; two-week hearing resulted in favorable opinion with no sanctions levied against client.

## Litigation

- Counsel to grain company in class action alleging manipulation of the wheat futures market in violation of the Sherman Antitrust Act and the Commodity Exchange Act.
- Counsel to multiple options market makers in several actions alleging spoofing and market manipulation in violation of the Securities Exchange Act and Commodity Exchange Act.
- Counsel to multiple options specialist firms in action brought by professional traders involving allegations of order mishandling, resulting in dismissal of claims against some defendants and summary judgment in favor of remaining defendants.
- Counsel to investment bank in connection with multiple lawsuits arising out of collapse of auction rate securities market, resulting in dismissal of all claims.
- Counsel to broker dealers and investment advisors in numerous FINRA arbitrations arising from claims brought by customers who invested in private placements.
- Counsel to individual defendant in class action and multiple individual actions alleging fraud and violations of Sherman Antitrust Act and the Commodity Exchange Act in connection with trading in the dairy markets.
- Counsel to individual defendant in class action involving allegations of stock options back dating.
- Counsel to clearing firm in CBOE arbitration, resulting in dismissal of all claims with prejudice.
- Counsel to broker-dealer in FINRA arbitration brought by former customer; week-long arbitration resulting in award entirely in favor of defendant.
- Counsel to investment bank in major class action involving allegations of manipulation and misconduct in connection with initial public offerings.

## Awards and Recognition

- Recognized, *Chambers USA: America's Leading Lawyers for Business* in the field of Derivates: Enforcement (2024)

- Selected by her peers for inclusion in *The Best Lawyers in America*® in the field of Litigation-Securities (2023)

### Pro Bono

- Represents clients on a pro bono basis and, in particular, individuals seeking asylum in the United States after fleeing persecution in their home countries
- Serves on the National Immigrant Justice Center's Leadership Council

### Presentations and Publications

- Chair, Enforcement Panel, *FIA Commodities Committee Conference* (September 13, 2023)
- Panelist, Understanding the Securities Laws 2023, *Practicing Law Institute* (July 14, 2023)
- Chair, Enforcement Panel, *FIA Law and Compliance Conference* (April 2023)
- Author, "More Than a Decade After Dodd-Frank, the CFTC Brings its First Anti-Evasion Case: What and What Does That Mean?" *FIA Law and Compliance Conference* (April 2023)
- Chair, Enforcement Panel, *ABA Futures and Derivatives Committee Meeting* (February 2023)
- Author, "Exchange Enforcement Actions – A Year in Review," *ABA Futures and Derivatives Committee Meeting* (February 2023)
- Panelist, Understanding Financial Products, *Practicing Law Institute* (January 2023)
- Author, "Ethical Issues Relating to Securities Lawyers – A Year in Review," *PLI Understanding Financial Products* (January 2022)
- Panelist, Understanding the Securities Laws 2022, *Practicing Law Institute* (July 2022)
- Panelist, Enforcement Panel, *FIA Law and Compliance Conference* (April 2022)
- Panelist, Enforcement Panel, *ABA Futures and Derivatives Committee Meeting* (January 2022)
- Author, "CFTC Enforcement: What if Anything Can Be Read Into the Decline in Enforcement Cases In 2021?" *ABA Derivatives and Futures Law Committee Meeting* (January 2020)
- Panelist, "Understanding Ethical Challenges when Working in Financial Products," *PLI Understanding Financial Products* (January 2022)
- Panelist, "Conducting and Defending Investigations From Home," *FIA Law and Compliance Conference* (April 29, 2021)
- Author, "Lessons Learned – A Year of Defending Regulatory Investigations Remotely," *FIA Law and Compliance Conference* (April 2021)
- Chair, "Ethics in Derivatives and Futures Law," *ABA Derivatives and Futures Law Committee Meeting* (January 29, 2021)
- Author, "Potential Pitfalls of Remote Work – From Inadvertent Disclosure of Client Information to Accidental Insider Trading," *ABA Derivatives and Futures Law Committee Meeting* (January 2020)
- Panelist, "Ethics in Derivatives and Futures Law," *ABA Derivatives and Futures Law Committee Meeting* (January 25, 2020)
- Author, "Recent Trends and Developments in False Statement Actions: Whether You Can Advise Your Client to "Just Answer the Question" and Other Ethical Issues Raised by the CFTC's Recent Enforcement Action," *ABA Derivatives & Futures Law Committee Meeting* (January 2020)

- Co-author, “Hot Topic: Securities and Commodities Enforcement,” *Corporate Disputes* (January-March 2019)
- Co-author, “Stock Exchange Immunity Erodes As Biz Models Evolve,” *Securities Law360* (August 20, 2018)
- Presenter, “Broker-Dealers and FCMs: Are Their Regulations Harmonized or Not?” FIA Law and Compliance 2018 (May 2018)
- Author, “Harmonizing the SEC’s and CFTC’s Enforcement Regimes,” FIA Law and Compliance Conference (March 2018)
- Presenter, “When Your Regulators Become Your Adversaries,” Foley & Lardner LLP Market Regulation Series (April 9, 2014)
- Co-author, “Top Ten SEC Enforcement Developments of 2012,” BNA’s *Securities Regulation & Law Report* (2013)
- Presenter, “Navigating the Dodd-Frank Minefield,” Foley & Lardner LLP Market Regulation Series (April 12, 2012)
- Presenter, “The Expansion of SEC’s Enforcement Authority,” Chicago Bar Association seminar entitled “The Crash of 2008 – The Government’s Response: Financial Reform” (March 17, 2011)
- Co-author, “Top Ten SEC Enforcement Developments of 2010,” BNA’s *Securities Regulation & Law Report* (February 21, 2011)

## Sectors

- [Energy](#)
- [Racial Justice & Equity](#)

## Practice Areas

- [Business Litigation & Dispute Resolution](#)
- [Financial Institutions](#)
- [Litigation](#)
- [Securities Enforcement & Litigation](#)
- [Securities, Commodities & Exchange Regulation](#)

## Education

- University of Michigan Law School, (J.D., 1997)
  - Chief articles editor, *Michigan Journal of Gender & Law*
- Grinnell College, (B.A., 1994)
  - Political Science

## Admissions

- Illinois
  - Northern and Central Districts of Illinois
- District of Colorado



FOLEY & LARDNER LLP

- The Second Circuit
- The Seventh Circuit
- The Federal Circuit
- Trial Bar for the Northern District of Illinois