



Benjamin Sauter Advocates “Taking On the CFTC” in Traders Magazine Op-Ed

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The usual response of companies to subpoenas from the U.S. Commodity Futures Trading Commission (CFTC) is to cooperate. However, cooperation very often leads down a road to “organized surrender.” There is an alternate strategy that can bring success, Kobre & Kim’s Benjamin Sauter explained in an Op-Ed for *Traders Magazine*.

As Sauter writes, the CFTC has two primary points of leverage against companies: imposing costly subpoenas at little cost to itself, and publicizing investigations and unproven allegations against a company’s will. These points are often enough to dissuade a company from challenging the CFTC, drain the company of resources, and eventually compel company surrender.

At the same time, the CFTC has its own pressure points. Companies that realize early on that the CFTC lacks the budget to litigate numerous cases can shift the power dynamic, such as through counter-offensive tactics like cost-shifting, stealing the public narrative and challenging the CFTC’s expansive – and often weak – legal theories. Sauter argues that by standing firm, companies can enhance their positions and achieve better outcomes against the CFTC.

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