

Insights



David McGill on Spoofing, the Statute of Limitations, and “Prosecution by Hindsight”

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Kobre & Kim’s David McGill sat down with Bloomberg to discuss a recent court decision that effectively extended the statute of limitations for spoofing cases, warning that it could potentially lead to prosecutorial overreach.

The statute of limitations for spoofing is five years, but a judge presiding over the coming trial of two former metals trader ruled that they can be charged with wire fraud in addition to spoofing, a charge which has a statute of limitations of ten years. Given that the decision has already ramped up Department of Justice action, McGill predicts the net effect “will be that manual traders, who were struggling to deal with the rise of algorithmic trading in the marketplace, will be at even greater risk of prosecution by hindsight.” Even worse is that good-faith orders could be “at a greater risk of being deemed ‘false’ statements,” McGill cautions.

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