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# Insights

**Kobre & Kim Goes After the CFTC over Settlement Gag Order: National Law Journal**

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Kobre & Kim has gone after the U.S. Commodity Future Trading Commission (CFTC) by filing a complaint under the Freedom of Information Act in regards to the recent settlement reached between the regulator and Kraft-Mondelez.

In its coverage of the complaint, National Law Journal points out how the firm has focused on the CFTC's secrecy provision (aka "gag order") in a settlement with Kraft Foods Group and Mondelez Global. In particular, the complaint raised questions about the provision could set a standard that "threaten[s] to chill legitimate market behavior while failing to deter potential misconduct in the future."

Kobre & Kim's Benjamin Sauter expanded on the idea saying the private resolution "left the industry without any intelligible guidance and with a potential misimpression that the legal theories asserted against Kraft had a sound legal basis."

While some members of CFTC questioned their agency's agreement to a gag provision, Kobre & Kim lawyers furthered that, "[t]he CFTC's secret settlement in the Kraft case, like its handling of other recent market manipulation cases, is a disservice to the industry the CFTC oversees. It is just the latest example of the CFTC obfuscating the law on market manipulation by pressing legal theories that are inconsistent with what the courts have articulated and using its leverage to secure private settlements purportedly validating the CFTC's own theories."

For the full article, click here (subscription required).

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