



**Thank you for joining today's
FIA Law and Compliance Division webinar.**

We will begin momentarily.



CFTC Enforcement Under the Trump Administration

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Agenda

- Enforcement Statistics
- Reorganization and Staff Reduction
- Advisories and Guidance
- Amendments to Rules of Practice
- Enforcement Actions
- Enforcement Priorities



Enforcement Statistics

Significant drop in enforcement under new administration

- In the 2024 fiscal year, the CFTC brought fifty-eight enforcement actions and obtained monetary relief of over \$17.1 billion.
- Since the change of administration, the agency has brought just eleven new enforcement actions and obtained less than \$1 billion in monetary relief—less than \$10 million of which resulted from actions filed by the current administration.
- The decline is due in part to staff reductions and a shift in priorities from enforcement to guidance.

Metric	FY 2024	After January 20, 2025
Enforcement Actions	58	11
Monetary Relief	\$17.1B	<\$1B



Reorganization and Reduction

- In February 2025, Acting Chairman Pham announced a reorganization of the Division of Enforcement’s task forces, with the goals of combating fraud, helping victims, and ending “regulation by enforcement.”

Complex Fraud Task Force

Focuses on complex fraud and manipulation across all asset classes

Retail Fraud and General Enforcement Task Force

Focuses on retail fraud and other general enforcement matters

- The Division of Enforcement experienced significant staff reductions in 2025.
 - 20% CFTC-wide staff reduction
 - Elimination of Chief Trial Attorney role
 - No enforcement attorneys in Chicago



Advisories and Guidance

- The CFTC in 2025 shifted its priorities from bringing enforcement cases to issuing guidance and news releases.
- Over the last year, the CFTC issued enforcement advisories on key topics:
 - Self-reporting and cooperation
 - Referrals from operating divisions
 - Referrals to criminal agencies



Self-Reporting and Cooperation

- On February 25, 2025, the CFTC released an Enforcement Advisory on Self-Reporting, Cooperation, and Remediation.
- On March 31, 2026, David Miller, the new Director of Enforcement, said he would issue new guidance, mooted the February 2025 guidance.
- Under the forthcoming guidance:
 - **Path to declination** with (i) self-report, (ii) cooperation, (iii) complete remediation, and (iv) no aggravating circumstances.
 - Cooperation is **binary** (no sliding scale).
 - Open CFTC investigation at time of report will not negate self-reporting credit.



Referrals from Operating Divisions

- On April 17, 2025, the CFTC issued a staff advisory on enforcement referrals by the operating divisions to the Division of Enforcement.
- Operating Divisions may refer **material** violations for enforcement.
- Operating Divisions will address non-material supervision or non-compliance issues directly with the registrant or registered entity.
- “**Material**” violations include: **harm** to clients, counterparties or customers, or members or participants; harm to market integrity; significant **financial losses**.
- **Material supervision and non-compliance issues** include:
 - Especially **egregious** or prolonged systematic deficiencies or material weakness of the supervisory system or controls;
 - **Knowing and willful misconduct** by management, such as conduct evidencing an intent to conceal a potential violation, or supervision or non-compliance issue;
 - **Lack of substantial progress** towards completion of a remediation plan for an unreasonable amount of time.



Referrals to Criminal Agencies

- On September 5, 2025, the CFTC issued a statement detailing its approach to criminal referrals. *Policy Statement on Referrals for Potential Criminal Enforcement* (90 Fed. Reg. 43586)

DOJ Referral Factors:

1. The **harm or risk of harm**, pecuniary or otherwise, caused by the potential offense;
2. The **potential gain** to the putative defendant that could result from the offense;
3. Whether the putative defendant held **specialized knowledge**, expertise, or was licensed in an industry related to the rule or regulation at issue;
4. Evidence, if any is available, of the putative defendant's general **awareness of the unlawfulness of his conduct** as well as his knowledge or lack thereof of the regulation at issue;
5. Whether the putative defendant is a **recidivist** or has otherwise engaged in a pattern of misconduct; and
6. Whether the involvement of the Department of Justice will provide **additional meaningful protection** to participants in the derivatives markets.



Amendments to Rules of Practice

- The CFTC announced amendments to its rules of practice relating to enforcement procedures on December 1, 2025.
- Among other things, the amendments:
 - Updated the CFTC's procedures for the Wells process, the procedure by which the Division of Enforcement notifies persons that they may be named in a forthcoming enforcement action;
 - Updated the process by which the Division of Enforcement will recommend enforcement actions to the Commission.



Changes to the Wells Process – Notice Requirements

- DOE retains discretion on whether to issue a Wells notice.
- If DOE decides to issue a Wells notice:
 - Notice should be given in writing, and if given orally, should be followed by written confirmation.
 - Written notice or confirmation should identify the specific charges.
 - The Division may give respondents information about the facts and circumstances underlying the charges.



Changes to the Wells Process – **Written Statement Requirements**

- DOE retains discretion to advise potential respondents that they may submit a written statement to the DOE before the Commission considers any charges.
- Key procedures around the Wells process have changed:

Before	Now
Minimum of 14 days to provide a written statement.	Minimum of 30 days to provide a written statement. DOE may require a shorter deadline only for good cause and with Director or Deputy Director approval.
DOE transmitted written statements to the Commission contemporaneously with a recommended enforcement proceeding.	Persons submitting may request that their statement be transmitted to the Commission promptly.
DOE transmitted written statements to the Commission upon request of the submitter.	If the DOE recommends the commencement of an enforcement proceeding, it shall forward any written statement to the Commission promptly.



Rules Relating to Investigations

- The CFTC amended [Regulation 10.108\(d\)](#) to update procedures by which the Division may recommend offers of settlement to the Commission.
 - Under the new procedures, the Division must provide to the Commission an **objective memorandum** that:
 - adheres to the applicable **rules of professional conduct**;
 - provides a comprehensive explanation of the **factual and legal foundation** for the recommendation; and
 - distinguishes unfavorable facts or legal precedents.
 - The memorandum must be supported by **citations to evidence** in the investigative record or stipulations by the parties, and legal arguments must be supported by points and authorities.



Enforcement “Sprint”

- On March 11, 2025, Acting Chairman Pham announced an “enforcement sprint” to review the CFTC’s open investigations and enforcement matters involving **compliance issues** in which there was **no customer harm**, fraud, or market abuse.
- On September 4, 2025, Pham announced the conclusion of the sprint. The CFTC issued six orders settling compliance violations against ten major financial institutions resulting in a combined \$8,325,000 in civil monetary penalties.

Offline Communications

- Three cases
- \$500,000 CMP each
- Substantially lower CMPs than prior settlements

System Errors/Supervision

- Inaccurate trading records - \$1.4m CMP
- Inadequate trade surveillance - \$5m CMP

Swap Data Reporting

- Inaccurate reporting for tens of thousands of swaps
- \$325,000 CMP

- Closure of nearly half of open CFTC enforcement matters.



Other New Cases

- Three **retail fraud** complaints:
 - *CFTC v. Dellas*, No. 25-cv-575 (N.D.N.Y. May 5, 2025)
 - *CFTC v. Mitchell*, No. 25-cv-13727 (E.D. Mich. Nov. 21, 2025)
 - *CFTC v. Ford*, No. 25-cv-687 (N.D. Okla. Dec. 19, 2025)
- One **spoofing** settlement
 - *In re Falloon*, CFTC No. 25-07 (Sept. 9, 2025)
 - Over 400 instances of spoofing futures contracts
 - \$200,000 penalty
- One **wash trading** settlement
 - *In re Shinhan Securities*, CFTC No. 25-08 (Sept. 17, 2025)
 - 127 instances of wash trading
 - \$212,500 penalty



New Chairman and Director of Enforcement

- **Michael Selig**
 - Appointed as **CFTC Chairman** on December 22, 2025
 - Previous Experience
 - Chief Counsel of the SEC's Crypto Task Force
 - Senior Advisor to SEC Chairman Paul S. Atkins
- **David Miller**
 - Appointed as **Director of Enforcement** on March 2, 2026
 - Previous Experience
 - Litigation partner – Greenberg Traurig and Morgan Lewis
 - 5 years as AUSA in SDNY, including on the Securities and Commodities Fraud Task force
- No new enforcement cases filed during Selig's tenure to date.



Enforcement Priorities

- On March 31, 2026, Miller outlined five priorities for CFTC enforcement:
 - **Insider trading**, including in prediction markets
 - **Market manipulation**, including in the energy markets
 - **Market abuse** and disruptive trading, including spoofing and wash trading
 - **Retail fraud**, including Ponzi schemes, commodity pool frauds, and pig butchering
 - Willful violations of **AML and KYC** laws



Prediction Markets

- On February 25, 2026, [Kalshi](#) took disciplinary action in two suspected insider trading cases:
 - California candidate for governor who traded event contracts relating to his own candidacy
 - Video editor for YouTuber, Mr. Beast, who traded event contracts relating to the channel
- The CFTC issued an enforcement advisory highlighting Kalshi's actions and confirming the CFTC's authority to police illegal trading on prediction markets, including:
 - [Insider trading](#) (Section 6(c)(1) of the Act; Regulation 180.1(a)(1) and (3))
 - [Pre-arranged, noncompetitive trading and wash sales](#) (Section 4(c)(a)(1) of the Act; Regulation 1.38(a))
 - Other prohibited trading practices, including [disruptive trading](#) (Section 4(c)(a)(5) of the Act)
 - [Fraud and manipulation](#) under various sections of the Act



Prediction Markets

- Miller's March 31 remarks focused extensively on prediction markets. Among other things, Miller stated:
 - Event contracts are **swaps**
 - **Exchanges** are a **first line of defense** in combating fraud and manipulation
 - CFTC will police illegal use of government information to trade
 - **"Eddie Murphy Rule"** (Section 4(c)(a)(4) of the CEA)

"We are aware of the speculation about insider trading that you see in the media, in chatrooms, and elsewhere. We are watching."

– David Miller, Director of Enforcement



Insider Trading in Prediction Markets – Hurdles to Enforcement

Are event contracts
“swaps”?

- To be a swap, an event contract must be associated with a **potential financial, economic, or commercial consequence**.
- Courts are split on this issue, and legal clarity may be years away.

Proving the elements of
insider trading

- The CFTC must prove **misappropriation of material, non-public information in violation of a preexisting duty**, with **scienter**.
- In the context of sports, entertainment, and other new event contracts, what information is material? When is it non-public? When does a duty arise?



Digital Assets

- Ending “Regulation by Prosecution” of Digital Assets Industry (Apr. 8, 2025)
 - Acting Chairman Pham directed CFTC staff to not charge regulatory violations involving digital assets unless there is evidence that the defendant **“knew of the licensing or registration requirement at issue and violated such a requirement willfully.”**
 - Directed CFTC staff to de-prioritize ongoing litigation relating to registration requirements under the CEA unless **the defendant knew of the requirement at issue and violated willfully.**
- On March 17, 2026, the SEC issued an Interpretation clarifying application of federal securities law to crypto assets.
 - The CFTC confirmed it would administer the CEA in accordance with the SEC’s guidance.



SEC Crypto Asset Taxonomy

- The SEC’s interpretation analyzed five types of crypto assets under the *Howey* test:
 - **Digital Commodities** - Crypto assets intrinsically linked to and derive their value from the programmatic operation of a crypto system that is functional, as well as supply and demand dynamics. “Could” meet the definition of a “commodity” under the CEA.
 - **Digital Collectibles** - Crypto assets designed to be collected and/or used and may represent or convey rights to artwork, music, videos, trading cards, in-game items, or digital representations or references to internet memes, characters, current events, or trends, among other things.
 - **Digital Tools** - Crypto assets that perform a practical function, such as a membership, ticket, credential, or identification.
 - **Payment Stablecoins** - Crypto assets that are designed to maintain a stable value relative to a reference asset, most often the U.S. dollar.
 - **Digital Securities** - Financial instruments enumerated in the definition “security” that are formatted as or represented by a crypto asset. The only crypto asset category that is a security.



SEC Guidance – Blockchain Activities

- The SEC confirmed that certain categories of on-chain activities do not involve the offer or sale of securities:
 - **Protocol mining activities** (including mining pools), in which participants contribute computational resources to a blockchain network to validate transactions.
 - **Protocol staking**, in which participants commit (or “stake”) digital commodities to a blockchain network to validate transactions.
 - **“Wrapping” of non-security crypto assets**, in which a person deposits a crypto asset with a custodian or cross-chain bridge and receives a wrapped token in exchange (typically native to a different crypto network than the original asset or based on a different token standard).
 - **Airdrops**, in which an issuer disseminates a crypto asset in exchange for no or nominal consideration.



Stablecoins

- The CFTC has previously determined that stablecoins are commodities and has brought enforcement actions relating to stablecoins.
 - E.g., *In re Tether Holdings Ltd.*, CFTC No. 22-04 (Oct. 15, 2021) (resolving fraud charges based on Tether’s misrepresentations relating to composition of its reserves)
- The **GENIUS Act**, excludes certain stablecoins from the statutory definition of a “commodity.”
 - “Section 1a(9) of the Commodity Exchange Act (7 U.S.C. 1a(9)) is amended by adding at the end the following: “The term ‘commodity’ does not include a payment stablecoin issued by a permitted payment stablecoin issuer, as such terms are defined in section 2 of the GENIUS Act.”
 - The CFTC still retains authority over stablecoins that are not issued in accordance with the GENIUS Act.



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