

CFTC announces enforcement priorities

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In his first public remarks since becoming CFTC Director of Enforcement, David Miller outlined his enforcement priorities, which are focused on serious cases implicating fraud, market manipulation and insider trading, including with respect to prediction markets. Miller also previewed a forthcoming advisory on the Division's cooperation policy, which will include material changes to how the CFTC approaches declinations and revisions to self-reporting requirements and evaluation of cooperation.

Director Miller's March 31, 2026 [speech](#) at New York University School of Law detailed his enforcement priorities and outlined the CFTC's new cooperation framework. He emphasized that his experience as a federal prosecutor guided his view to focus the Division on the "most serious cases" and acting swiftly in bringing enforcement actions, while remaining fair, just and transparent. Notably, and consistent with Administration policy, Miller was emphatic in his assertion that the era of "regulation by enforcement" is over at the CFTC.

Enforcement priorities

Director Miller described five areas of priority for the Division of Enforcement:

(1) insider trading, including in the prediction markets; (2) market manipulation, particularly in energy markets; (3) market abuse/disruptive trading; (4) retail fraud; and (5) willful violations of Anti-Money Laundering (AML) and Know-Your-Customer (KYC) laws and rules.

In discussing these priority areas, Director Miller highlighted the consequences of insider trading on market integrity. He also emphasized the important role of exchanges in fighting insider trading and market manipulation, noting that exchanges play an important role with respect to preventing market abuses, including through maintaining appropriate surveillance and compliance practices and procedures. Director Miller also stated that the Division of Enforcement will continue to broadly enforce against various forms of retail fraud, including Ponzi schemes, commodity pool frauds, pig-butchering, impersonation frauds, and phishing attacks. Lastly, Director Miller added that the focus on KYC and AML enforcement would only be for *willful* violations and emphasized that the Division is not "prioritizing technical violations." Miller stated that the CFTC will continue to make criminal referrals in situations warranting such escalations.

Prediction market insider trading

With respect to prediction markets, Director Miller explained the CFTC's position that event contracts on prediction markets are swaps under the Commodity Exchange Act (CEA) and that insider trading is prohibited under a straightforward application of the anti-fraud provisions under the CEA and signaled that this will be an area of enforcement focus.

He cited to the CFTC's recent [advisory](#) on prediction markets that suggested ways in which exchanges could take steps to protect against insider trading or market abuses, such as considering whether event contracts present a heightened risk of manipulation or price distortion before they are listed or reviewing lists of individuals provided by sports leagues who should be barred from trading in sports-related event contracts.

In his remarks, Director Miller also noted the illegal use of government information to trade, including with respect to event contracts. Director Miller stated that many government employees are subject to the STOCK Act, which prohibits government employees from using and trading on material nonpublic information they may obtain through the course of their employment.

Staff advisory on cooperation

Director Miller announced that the Division of Enforcement would soon issue a new staff advisory on cooperation, which would replace the current policy issued in [February 2025](#). This new staff advisory is aimed at further incentivizing cooperation, streamlining the CFTC's approach, and taking a more equitable approach with respect to cooperation, which Director Miller previewed during his remarks.

The new advisory will announce that if a party self-reports, cooperates fully, and remediates fully, absent any aggravating circumstances, the CFTC will afford that party a clear path to obtain a declination. The advisory will also note that pervasive intentional or reckless conduct by ownership or senior management or recidivist conduct could preclude eligibility for a declination under the forthcoming policy.

Self-reporting requirements will also be clarified under the new advisory, which explains that if a party self-reports in a prompt and good-faith fashion, even if the party needs more time to investigate the underlying conduct, they may be eligible for a declination regardless of whether the CFTC was already aware of the conduct. This will not apply where the information about the conduct is public or the party knows or suspects of an imminent disclosure from a different source, such as where the party knows or suspects there is a whistleblower or a parallel investigation.

The advisory will also simplify how the CFTC evaluates cooperation. Specifically, the Division of Enforcement will begin to take a binary view of cooperation, in which parties may either fully cooperate by providing relevant information, or choose not to cooperate, which will foreclose a path to a declination. In order to receive a declination under the new advisory, a party must also fully remediate, which will require the compensation of victims, the implementation of changes to compliance programs and internal controls, discipline for relevant employees (including those with supervisory authority), and disgorgement of ill-gotten gains.

The new advisory will be incorporated into the CFTC's [Enforcement Manual](#).

Key takeaways

In what appears to be a theme across agencies recently, the CFTC is following suit and providing more transparency about its enforcement priorities and how it will evaluate voluntary disclosures, cooperation and remediation.

Also consistent across this Administration, the CFTC also appears to be favoring an approach of prioritizing more serious misconduct and veering away from regulation by enforcement.

These developments provide an opportunity to companies under investigation to better position themselves to effectively advocate and engage in the type of behavior that the CFTC will reward. As always, it will be important to see how these new policy pronouncements are implemented.

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