

CFTC issues new cooperation policy for enforcement matters

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The CFTC's Division of Enforcement announced its new cooperation policy for corporate enforcement matters. The advisory seeks to incentivize companies to voluntarily disclose, cooperate and remediate by offering a structured path to declination and significant penalty reductions, consistent with the policy of other Administration enforcement agencies.

On May 19, 2026, the CFTC's Division of Enforcement issued a new [staff advisory](#) establishing a new policy on cooperation, self-reporting and remediation in enforcement matters. The policy is effective immediately and supersedes all prior advisories on these subjects, including the February 2025 enforcement advisory that introduced a mitigation-credit matrix with penalty reductions of up to 55%. As described in our [prior client alert](#), Director of Enforcement David Miller previewed in his March 31, 2026, [remarks](#) at the NYU School of Law, that the new framework would provide a clearer and more generous path for parties that self-report, cooperate and remediate—including, for the first time, a structured pathway to a full declination.

The policy is consistent with attempts by other agencies across this Administration, including the DOJ, to establish clear policies to reward good corporate behavior. Although the benefits of the policy go further than prior CFTC policies, it will be important for companies to see how the policy is implemented.

Three-tier cooperation framework

The policy replaces the prior advisory's multi-factor matrix with a streamlined, three-tier structure for cooperation credit.

Tier 1: Full declination. The Division will not recommend an enforcement action where a party (1) made a qualifying voluntary self-report, (2) provided full cooperation, (3) effected timely and appropriate remediation, (4) provided full restitution and/or disgorgement and (5) there are no aggravating circumstances that preclude eligibility. Notably, even where aggravating circumstances exist, the Division retains discretion to decline enforcement after balancing those factors against the party's cooperation efforts.

Tier 2: Penalty reduction of 25–75%. A party may be ineligible for a full declination for two reasons: its self-report did not qualify as a voluntary self-report or aggravating factors preclude eligibility. If that party nonetheless provided full cooperation, timely and appropriate remediation and full restitution and/or disgorgement, the Division will recommend a civil monetary penalty reduction. Where the self-report did not qualify, the reduction will be at least 50%. Where aggravating factors are present, the reduction will be at least 25%. In either case, the maximum reduction is 75%.

Tier 3: Residual cooperation credit of up to 25%. For parties that do not qualify under Tier 1 or Tier 2, the Division retains discretion to recommend up to a 25% reduction for any self-reporting or cooperation that occurred, provided the party engaged in timely and appropriate remediation and provided full restitution and/or disgorgement.

What qualifies as a voluntary self-report

The policy sets out detailed criteria for a self-report to qualify as “voluntary.” The report must be made in good faith. It must also be made before any known or reasonably anticipated imminent threat of disclosure—whether through a whistleblower, the media or other channels—or before any known or reasonably anticipated imminent threat of an investigation by an exchange, self-regulatory organization or governmental entity. The party must disclose the misconduct within a reasonably prompt time after becoming aware of it and the burden is on the party to demonstrate timeliness. The Division expects registrants to report at the earliest possible opportunity rather than deferring to a routine or periodic reporting date. A report may be made to any division of the CFTC and will qualify even if the CFTC already has independent knowledge of the misconduct.

The policy also introduces a safe harbor for inaccuracies: the Division will not recommend false-statement charges under specified Commodity Exchange Act provisions where a good-faith self-report later proves inaccurate, provided the information is corrected promptly after discovery.

Full cooperation and remediation expectations

A party can only qualify for the full benefits of the program if it fully cooperates with the CFTC. Full cooperation requires timely disclosure of all non-privileged, relevant information—including internal investigation findings and identification of all individuals involved regardless of seniority—as well as proactive assistance, timely document preservation and production (including overseas documents and translations), deconfliction of internal investigative steps with the Division’s requests and making personnel available for interviews. The Division will take into consideration the size, sophistication and financial condition of the cooperating party when assessing the scope and quality of cooperation.

For remediation, the Division expects a thorough root-cause analysis, implementation of an effective compliance and ethics program, appropriate discipline of responsible employees (including those who failed in oversight) and record-retention measures that specifically address personal devices and ephemeral messaging platforms. The ephemeral messaging requirement is new and had no counterpart in the 2025 Advisory.

Key takeaways

As Enforcement Director Miller previewed in March, the new policy increases the incentives for companies to self-report, cooperate and remediate, replacing the prior advisory’s 55% cap with reductions of up to 75%—and a structured path to full declination.

The policy also broadens the definition of voluntary disclosure to include cases where the report is made to a division within the CFTC other than the Enforcement Division and where the CFTC is already aware of the misconduct. On the other hand, companies cannot receive credit if there was already an imminent threat of disclosure.

More broadly, the CFTC’s approach largely tracks a [DOJ corporate enforcement policy](#) unveiled in March and reflects a wider trend across agencies toward providing greater predictability around the benefits of cooperation.

As always, it will be important to see how these new policy pronouncements are implemented in practice.

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