

CFTC Reports Record Year for Enforcement

December 4, 2020

The Commodity Futures Trading Commission (CFTC) Enforcement Division's Annual Report highlights the agency's record number of enforcement actions in 2020, a focus on retail fraud cases, and frequent cooperation with other agencies.

The CFTC Enforcement Division released its [Annual Report](#) on December 1, 2020. Over the prior twelve months, the CFTC brought a record number of enforcement actions (113), a record number of retail fraud actions (56), and the fourth-highest total of ordered monetary relief (over \$1.3 billion). The Annual Report states that the Enforcement Division is focused on preserving market integrity, protecting customers, promoting individual accountability, and increasing coordination with other government authorities.

- **Number of cases.** The CFTC brought a record number of enforcement actions, 113. The previous high was 102 actions.
- **Monetary relief ordered.** The CFTC obtained orders for more than \$1.3 billion in monetary relief, the agency's fourth-highest amount and the third straight year-over-year increase.
- **Types of cases.** The most common types of cases that the CFTC filed were:
 - 56 retail fraud cases, which involved misleading claims and scams directed at retail investors—of note, 7 of the retail fraud cases involved digital assets such as Bitcoin;
 - 24 customer funds, supervision, and financial integrity cases, which involved misappropriation of customers' funds and failure to adequately supervise employees among other violations;
 - 16 manipulative conduct cases, which involved conduct designed to manipulate the price of a swap or commodity; and
 - 9 failure to register cases and/or illegal off-exchange contracts cases, which involved entering contracts with retail investors outside of an exchange in violation of the Commodity Exchange Act.
- **Coordination with other authorities.** The CFTC filed 16 actions in parallel with federal criminal authorities this fiscal year. Over the past three years, the CFTC filed 46 such actions. The CFTC also filed a single action involving elder fraud in parallel with 30 state regulators.
- **Individual accountability.** The CFTC charged one or more individuals in 50 of its 113 actions.
- **Guidance.** The CFTC highlighted two guidance documents it issued.
 - The CFTC issued its first new civil monetary penalty guidance since 1994. The guidance details the factors the CFTC considers in recommending monetary penalties. For further analysis of the guidance, see our May SEC and CFTC Enforcement update [here](#).
 - The CFTC issued guidance about its evaluation of compliance programs during enforcement matters. This is the first such guidance from the CFTC.
- **Whistleblower program.** The CFTC granted 16 whistleblower awards totaling roughly \$20 million. The CFTC noted that it expects its whistleblower program to grow, and that between 30 to 40% of the Enforcement Division's ongoing investigations involve a whistleblower.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your usual Davis Polk contact.

New York

Greg D. Andres	+1 212 450 4724	greg.andres@davispolk.com
Martine M. Beamon	+1 212 450 4262	martine.beamon@davispolk.com
Angela T. Burgess	+1 212 450 4885	angela.burgess@davispolk.com
Tatiana R. Martins	+1 212 450 4085	tatiana.martins@davispolk.com
Gabriel D. Rosenberg	+1 212 450 4537	gabriel.rosenberg@davispolk.com
Margaret E. Tahyar	+1 212 450 4379	margaret.tahyar@davispolk.com

Washington, DC

Robert A. Cohen	+1 202 962 7047	robert.cohen@davispolk.com
Neil H. MacBride	+1 202 962 7030	neil.macbride@davispolk.com
Fiona R. Moran	+1 202 962 7137	fiona.moran@davispolk.com
Paul J. Nathanson	+1 202 962 7055	paul.nathanson@davispolk.com