U.S. COMMODITY FUTURES TRADING COMMISSION
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CFTC Staff Advisory
Division of Enforcement

To: **Division of Enforcement Staff**
Public at Large

Subject: **New Division of Enforcement Policy on Cooperation**

This enforcement advisory describes the Commodity Futures Trading Commission's ("CFTC" or "Commission") Division of Enforcement's ("Division") new policy for evaluating cooperation when considering declinations or making enforcement recommendations to the Commission ("Policy"). It explains the Division's approach to assessing self-reports, cooperation, remediation, and restitution and/or disgorgement, and sets forth the Division's approach regarding potential declinations.[1] It is intended to provide clarity, promote consistency, and reinforce the Division's commitment to transparency in its enforcement practices. This Policy is effective immediately and serves as the Division's exclusive policy on self-reporting, cooperation, and remediation. This Policy supersedes all prior policies on these subjects.[2]

Background

The Division is committed to prosecuting misconduct that violates the Commodity Exchange Act ("CEA") and CFTC Regulations firmly, fairly, and efficiently. To do so, the

[1] This Policy provides internal guidance regarding the Division's recommendations to the Commission in connection with certain investigations or enforcement actions. Agency action in a particular matter, such as an order, can only be taken by the Commission in its sole discretion, and this internal guidance does not bind the Commission. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable by law by any party in any matter, civil or criminal. Nor are any limitations hereby placed on otherwise lawful litigation prerogatives of the Commission.

[2] Specifically, this Policy rescinds the February 2025 enforcement advisory titled *Enforcement Advisory: Advisory on Self-Reporting, Cooperation, and Remediation* (Feb. 25, 2025), https://www.cftc.gov/media/11821/EnfAdv_Resolutions022525/download. That advisory replaced all previously announced policies, including statements in the Division's Enforcement Manual; those rescinded policies no longer remain in effect. The Division will release a new Enforcement Manual, which will incorporate this Policy.

Division seeks to incentivize responsible behavior by encouraging registrants and market participants to invest in effective compliance programs, voluntarily self-report potential misconduct, meaningfully cooperate with the Commission, and make good-faith efforts to remediate and prevent wrongdoing. This Policy is designed to protect markets, serve the public interest, and detect, deter, and prosecute fraud, manipulation, market abuse, and other violations of the CEA and CFTC Regulations, while recognizing the benefits of cooperation in addressing such misconduct, including for entities with regulatory obligations.

This Policy draws on the Division's experience and establishes incentives for parties—whether entities or individuals—to promptly report misconduct, enabling the Division to investigate and hold wrongdoers accountable more effectively.[3] This Policy is intended to: (1) drive early, voluntary self-reporting of violations; (2) promote timely and effective enforcement of the CEA and CFTC Regulations, including holding culpable individuals accountable; (3) reduce market harm from violations; (4) facilitate prompt remedial action, including requiring parties to compensate those harmed by any violations and address compliance and internal control deficiencies; and (5) provide a transparent description of the Division's policies and decision-making process.[4]

All resolutions under this Policy must be approved by the Director of Enforcement, and, if applicable, submitted to the Commission for approval.

I. Securing Declinations from Enforcement

The Division is committed to describing transparently the benefits a party may earn through voluntarily self-reporting misconduct. The Division will not recommend to the Commission that an enforcement action be instituted for violations of the CEA and/or CFTC Regulations when all the following factors are met (capitalized terms defined in Part IV below):

1. The party made a Voluntary Self-Report to the CFTC;
2. The party provided Full Cooperation during the Division's investigation;
3. The party effected Timely and Appropriate Remediation of the misconduct;
4. The party provided Full Restitution and/or Disgorgement, if applicable; and
5. There are no aggravating circumstances that preclude eligibility. Aggravating circumstances that may, but do not necessarily, preclude eligibility are limited to pervasive intentional or reckless misconduct by ownership or senior management; intentional or reckless misconduct occurring over an extended period; recidivist

[3] This Policy applies to all parties before the Division: entities and individuals. Some of the items listed in Section IV (Definitions), however, may be inapplicable to individuals.

[4] To minimize uncertainty for parties that self-report, the Division will endeavor to obtain the relevant facts and circumstances necessary to determine eligibility under this Policy and, where appropriate, will inform a party of its status as soon as/if practicable.

intentional or reckless misconduct; and/or instances in which the misconduct has caused particularly egregious aggregate harm. The Division still retains discretion to refrain from recommending that the Commission commence an enforcement action based on balancing the severity of those aggravating circumstances against the party's Voluntary Self-Report, Full Cooperation, Timely and Appropriate Remediation, and Full Restitution and/or Disgorgement.

The Division may, in its discretion, grant a declination either before or after full implementation of Timely and Appropriate Remediation, depending on the circumstances, complexity, and duration of the planned remediation. When the Division determines that a party has created and/or implemented an appropriate plan to provide Full Restitution and/or Disgorgement, the Division may also make a declination determination either before or after payment of restitution and/or disgorgement, depending on the circumstances and the most effective method of returning funds to those harmed by the violations.

II. Treatment of Matters with Insufficient Voluntary Self-Reporting or with Aggravating Factors

If a party provided Full Cooperation, Timely and Appropriate Remediation, and Full Restitution and/or Disgorgement, but is nonetheless ineligible for a declination under Part I of this Policy because (1) it acted in good faith by self-reporting the misconduct, but that self-report did not qualify as a Voluntary Self-Report, and/or (2) there are aggravating factors that preclude eligibility for a declination, then the Division will incorporate cooperation credit into its recommendation.[5] In such matters, the Division will recommend a civil monetary penalty reduction from the Division's good-faith calculated penalty of at least 50 percent in matters where the party's good faith self-report did not qualify as a Voluntary Self-Report or at least 25 percent in matters involving aggravating factors. In either circumstance, the maximum recommended penalty reduction would be no more than 75 percent. This cooperation credit reflects the substantial value of the party's efforts while accounting for factors that limit eligibility for a full declination.

III. Resolutions in Other Matters Where Cooperation Credit Is Available

If a party is not eligible for relief under Part I or Part II of this Policy, the Division retains discretion to award cooperation credit for any self-reporting and/or cooperation that did occur. The Division will consider cooperation credit only where the party has engaged in Timely and Appropriate Remediation and has provided Full Restitution and/or Disgorgement.[6] In those matters, even if there has not been both a Voluntary Self-Report and Full Cooperation

[5] As with declinations, in Part II matters, the Division can, consistent with Part IV's definitions, make its final determination on awarding cooperation credit either before or after final implementation of Timely and Appropriate Remediation and Full Restitution and/or Disgorgement, depending on relevant circumstances.

[6] As in Part II matters, in Part III matters, the Division can make its final determination on awarding cooperation credit either before or after final implementation of Timely and Appropriate Remediation and Full Restitution and/or Disgorgement.

throughout the investigation, the Division may recommend, based on the facts and circumstances of the matter and absent extraordinary circumstances, no more than a 25-percent reduction to the Division's good-faith calculated penalty. This credit reflects the party's assistance, while recognizing that the absence of Voluntary Self-Report and/or Full Cooperation warrants a more limited reduction to preserve incentives for early reporting and full cooperation.

IV. Definitions

A. Voluntary Self-Report

In evaluating self-reports to determine if they qualify as a Voluntary Self-Report under this Policy, the Division will make a careful assessment of the circumstances, including the extent to which the report enabled the Division to preserve and obtain relevant evidence. The Division encourages a party to self-report non-privileged information regarding potential wrongdoing at the earliest possible time, even before or during an internal investigation. The following items are required for a self-report to qualify as a Voluntary Self-Report under this Policy:

1. The report may be made to any division of the CFTC.

2. The report must be made in good faith. The Division will assess whether a report was made in good faith by considering, among other factors, the circumstances leading to the self-report, the timing and completeness of the self-report, and the level of transparency provided by the party.

3. The report must be made voluntarily. For a report to qualify as a Voluntary Self-Report, the report must occur before any known or reasonably anticipated imminent threat of disclosure of the matter through a whistleblower, the media, or other channels, or before any known or reasonably anticipated imminent threat of an investigation of the matter by an exchange, self-regulatory organization, or state or federal governmental entity.

4. The party must disclose the misconduct within a reasonably prompt time after becoming aware of the misconduct, with the burden on the party to demonstrate timeliness. The Division expects registrants to report misconduct at the earliest possible opportunity, and to not defer disclosure until a routine or periodic reporting date.

5. At this stage, the party must report all material, non-privileged information in its possession or control about the misconduct. This requirement applies in all cases, including when the party has incomplete information, has an ongoing internal investigation, or has just commenced an internal investigation.

6. The party must have timely fulfilled any statutory or regulatory obligation to provide related information to the CFTC or any of its operating divisions after becoming aware of the misconduct.

7. A voluntary, good-faith self-report that otherwise satisfies the requirements will qualify as a Voluntary Self-Report even if the CFTC already has independent knowledge of the misconduct.

8. The Division understands that in some circumstances there may be inaccuracies in a self-report, particularly if parties are promptly disclosing misconduct. The Division will provide a safe harbor and not recommend charges under Sections 6(c)(2), 9(a)(2), and/or 9(a)(3) of the Commodity Exchange Act, 7 U.S.C. §§ 9(2), 13(a)(2), and/or 13(a)(3), for any self-report that is later found to be inaccurate after further investigation, if the self-report was made in good faith and if any inaccurate information in the self-report is supplemented and corrected promptly after discovery of the inaccurate information.

B. Full Cooperation

The following items are required for a party to receive credit for Full Cooperation under this Policy:

1. Timely disclosure of all non-privileged, relevant information concerning the misconduct, including:

    a. Information gathered during any internal investigation the party elects to conduct;

    b. Identification of all individuals involved in or responsible for the misconduct, including officers, employees, customers, competitors, agents, and third parties, along with all relevant non-privileged information relating to those individuals, regardless of position, status, or seniority;

    c. Attribution of information to specific sources where doing so does not violate any privilege; and

    d. Rolling, timely updates regarding the party's internal investigation, if one is conducted.

2. Proactive cooperation, including disclosure of relevant information, even when not specifically requested, and identification of opportunities for the Division to obtain evidence not in the party's possession or otherwise unknown to the Division.

3. Timely preservation, collection, and production of relevant documents and information, including:

    a. Production of overseas documents, the locations where they were found, their custodians, and the individuals who authored and located them;

    b. Facilitation of third-party document production; and

c. Provision of accurate translations of relevant foreign-language documents when requested.

4. The party bears the burden of establishing any asserted prohibitions on production under foreign law and must identify reasonable, lawful alternatives to provide the Division with the necessary information.

5. Deconflict internal investigative steps with the Division's requests, including delaying interviews for limited periods when specifically requested. The Division will not, however, direct the party's internal investigation.

6. Nothing in this subsection prevents the party from taking actions required by law or regulation. If such actions may conflict with a deconfliction request, the party must provide advance notice sufficient to allow the Division to take steps at its discretion.

7. Subject to individuals' Fifth Amendment rights, the party must make officers, employees, and agents with relevant information available for interviews, including, where possible, individuals located overseas and former employees. The party should also facilitate interviews of relevant third parties when possible.

8. The Division will take into consideration the size, sophistication, and financial condition of the cooperating party when assessing the scope, quantity, quality, impact, and timing of cooperation.

C. Timely and Appropriate Remediation

The following items are required for a party to receive credit for Timely and Appropriate Remediation under this Policy:

1. A thorough root-cause analysis of the misconduct and, where appropriate, implementation of remediation measures designed to address those root causes.

2. The implementation of an effective compliance and ethics program, calibrated to the size and resources of the organization and the risks associated with its business. An effective program may include, but is not limited to:

    a. A demonstrated commitment to corporate values that promote compliance and a clear message that violations, including the misconduct at issue, will not be tolerated;

    b. Adequate resources dedicated to compliance;

    c. Compliance personnel with the experience and skill necessary to identify transactions and activities that present risk;

    d. Independence and authority of the compliance function, including meaningful access to senior leadership and governance bodies;

e. A risk-based compliance program, tailored to the organization's specific activities and informed by a robust compliance risk assessment;

f. Compensation, review, and promotion structures that incentivize compliance;

g. Ongoing testing and evaluation to ensure the compliance program remains effective; and

h. Additional steps demonstrating the party's recognition of the seriousness of misconduct, acceptance of responsibility, and commitment to reducing the risk of future misconduct, including measures designed to identify and mitigate emerging risks.

3. Appropriate discipline of employees responsible for the misconduct, including both individuals who directly engaged in the wrongdoing and those who failed in their oversight responsibilities, as well as individuals with supervisory authority over the relevant business area, if appropriate.

4. Implementation of appropriate record-retention measures, including but not limited to policies prohibiting the improper destruction or deletion of business records, and adequate controls over the use of personal devices and messaging applications—including ephemeral messaging platforms—that could impair required record retention or compliance with legal obligations.

5. If the party is an individual, some/all of the aforementioned remedial steps may be inapplicable. Remediation for individuals may be highly fact-specific and could include (but not necessarily be limited to):

   a. Receiving additional ethics/professional training and/or certifications;

   b. Retention of professionals, including accountants and financial consultants; and

   c. Restrictions on certain business activities for defined periods.

6. The Division may, in its discretion, determine whether it will grant a declination or award cooperation credit either before or after the full implementation of Timely and Appropriate Remediation, depending on the circumstances, complexity, and duration of planned remediation.

D. Full Restitution and/or Disgorgement

The following items are required for a party to receive credit for Full Restitution and/or Disgorgement under this Policy:

1. The Division must agree that the party has created and/or implemented an appropriate plan to provide full restitution to those harmed by any violations, if applicable.

    a. A party may satisfy this obligation by making full restitution to those harmed by the violations even before the party reached agreement with the Division. The Division encourages parties to make those harmed by any violations whole immediately. The Division will also give appropriate credit to a party that proactively provided partial restitution to those harmed by the violations before the Division agreed to a restitution plan providing for full restitution.

    b. Where identifying all those harmed by any violations is impracticable, or complex issues in analyzing the full restitution amount would unduly delay restitution, the party must agree to a reasonable restitution plan acceptable to the Division.

2. The Division must agree that the party has created and/or implemented an appropriate plan for the disgorgement of all ill-gotten gains, if applicable.

3. The Division may, in its discretion, determine whether it will grant a declination or award cooperation credit either before or after payment of required amounts depending on the circumstances and the most effective path to providing restitution to those harmed by any violations.