Skadden

Executive Briefing

Latest Updates on the Trump Administration

February 6, 2025

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

David Meister
Partner / New York
212.735.2100
david.meister@skadden.com

Chad E. Silverman
Partner / New York
212.735.3463
chad.silverman@skadden.com

Peter A. Varlan
Associate / New York.
212.735.3332
peter.varlan@skadden.com

Greg Zaffino
Associate / New York
212.735.3755
greg.zaffino@skadden.com

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

One Manhattan West
New York, NY 10001
212.735.3000

CFTC To Reorganize Task Forces and End 'Regulation by Enforcement'

On February 4, 2025, CFTC Acting Chair Caroline D. Pham announced that the agency was reorganizing the Division of Enforcement's nine task forces "to combat fraud and help victims while ending the practice of regulation by enforcement." The preexisting task forces of division personnel were:

- Spoofing and Manipulative Trading
- Digital Assets
- Insider Trading and Protection of Confidential Information
- Bank Secrecy Act
- Swaps
- Foreign Corruption
- Romance Scams
- Cybersecurity and Emerging Technologies
- Environmental Fraud

Now, according to the announcement, there will be two units: the Complex Fraud Task Force and the Retail Fraud and General Enforcement Task Force. The Complex Fraud Task Force will be responsible for preliminary inquiries, investigations and litigations relating to complex fraud and manipulation across all asset classes. The Retail Fraud and General Enforcement Task Force will focus on retail fraud and general enforcement matters involving other violations of the Commodity Exchange Act.

As discussed in an earlier article, the change of administration was expected to lead to a shift in the CFTC's enforcement priorities away from what two commissioners have called "regulation by enforcement" while maintaining a focus on market manipulation and fraud. See our January 14, 2025, article "Approach to Corporate Enforcement May Become More Business-Friendly." When Acting Chair Pham was a commissioner in the last administration, she was a vocal critic of enforcement cases involving rules where the CFTC has not issued clear guidance. Consistent with that theme, the February 4 announcement stated that the task force reorganization would "stop regulation by enforcement" and avoid punishing "good citizens," namely registrants in cases where it was unclear what complex and ambiguous CFTC rules require.

There may be more changes to come under Acting Chair Pham. For example, in August 2024 she advocated for the creation of a Division of Examinations to handle supervisory matters. She also publicly indicated an interest in giving operating divisions other than Enforcement — such as the Division of Market Oversight and the Division of Clearing and Risk — a larger role in enforcement by granting them approval authority over enforcement actions that are based on registration or compliance requirements.

© Skadden, Arps, Slate, Meagher & Flom LLP. All rights reserved.

CFTC To Reorganize Task Forces and End 'Regulation by Enforcement'

In the same statement, she proposed that self-reports of material non-compliance issues by the industry should be made to these other divisions, which in turn would have discretion over whether to refer those matters to the Enforcement Division. If implemented, these process changes would further support her goal of shifting the responsibility for supervising and providing guidance on more technical compliance issues to other divisions, while leaving the Enforcement Division to focus on manipulation and fraud.