

White Collar Defense and Investigations



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CFTC Director of Enforcement Provides Insight on Recent Advisory

On March 27, 2025, the Futures Industry Association hosted a webinar with Brian Young, the director of the U.S. Commodity Futures Trading Commission (CFTC) Division of Enforcement. Although he noted that the opinions expressed during the subsequent discussion were his own and not the official CFTC views, his statements provided insight into how the CFTC may apply its recent [Enforcement Advisory on Self-Reporting, Cooperation, and Remediation](#). The following are highlights of Mr. Young's comments.

Self-Reporting Credit

Prompt self-reporting is a prerequisite to receiving self-reporting credit. To measure "promptness," the CFTC will consider (i) whether good-faith efforts were made to timely report, (ii) the length of any internal investigation prior to the report and (iii) compliance with any internal governance requirements.

The CFTC has created three self-reporting tiers:

1. No Self-Reporting.
2. Satisfactory Self-Reporting.
3. Exemplary Self-Reporting.

- A respondent can receive credit for Exemplary Self-Reporting even if an internal investigation is ongoing at the time of a report as long as the respondent (i) reports all material information known at the time, (ii) identifies additional areas to be investigated and (iii) provides updates.
- Respondents should not delay self-reporting to complete remediation.
- Notably, self-reporting credit is not forfeited by a company making a good-faith argument that no law was violated.

Cooperation Credit

The CFTC maintains four cooperation tiers:

1. No Cooperation.
 2. Satisfactory Cooperation.
 3. Excellent Cooperation.
 4. Exemplary Cooperation.
- A company can achieve Satisfactory Cooperation by assisting the investigation through steps such as making witnesses available, producing documents and making a presentation.

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- Excellent Cooperation is distinguished from Satisfactory Cooperation by the level of engagement with the investigation, and requires additional work — such as conducting an internal investigation, identifying witnesses for interviews or testimony and proposing remediation.
- The highest tier — Exemplary Cooperation — will be attainable but rare, and requires significant completion of remediation.

Penalty Determination; Mitigation Credit

The CFTC will determine penalties based on a true two-step process. In the first step, the Division of Enforcement will assess an “initial” civil monetary penalty through a fact-intensive inquiry that will consider the conduct and the number of violations, as well as the penalties in prior similar cases (accounting for whether those cases included discounts for cooperation or self-reporting).

In the second step, the division will reduce the initial penalty by mitigation credit measured by the extent of any self-reporting and cooperation. Mitigation credit will not apply to disgorgement or restitution. Enforcement staff will have some discretion here. For example, a respondent might receive greater credit if the respondent’s self-report caused the company to suffer significant collateral consequences, while a delay in self-reporting could lead to a smaller credit.

Other Settlement Insights

Mr. Young expects that the CFTC will decide whether to seek admissions or settle on a no-admission/no-denial basis depending on which option saves CFTC resources. He also said that the CFTC might publicly announce that it was not bringing charges where a self-report makes the CFTC aware of a widespread problem in the industry.