

April 2026

Follow us on [LinkedIn](#)

## CFTC's New Director of Enforcement Discusses Priorities

By [Michael Spafford](#) and [Patricia Liverpool](#)

On March 31, Commodity Futures Trading Commission (CFTC) Director of Enforcement David Miller [gave his first speech](#) as director. He outlined the Division of Enforcement's five enforcement priorities and previewed a new staff advisory on cooperation. Here are five quick takeaways from Director Miller's message.

### Balanced but Firm Message

A former Southern District of New York prosecutor (like his most recent predecessors), Director Miller also has considerable private practice experience. His comments and tone reflected his diverse experience.

Within the first five minutes of his speech, Director Miller announced that "the era of regulation by enforcement is over." Instead, the division "will relentlessly focus on serious violations" in five key areas: (1) insider trading in the prediction markets; (2) market manipulation in the energy markets; (3) market abuse (including "spoofing, disruptive trading during the closing period and wash trading"); (4) retail fraud (especially actors targeting "at-risk populations"); and (5) willful violations of anti-money laundering (AML) and know your customer (KYC) laws.

Director Miller emphasized that the Division of Enforcement will be an active cop on the beat, "policing" and "watching [the markets]." He used the word "prosecute" six times and emphasized the division will act quickly when necessary. Director Miller also referenced the CFTC's "important partnerships" with the regulated exchanges, the Securities and Exchange Commission and the Department of Justice. In doing so, he cited the key role of the exchanges in surveilling and monitoring their markets. He also stated that the division will not hesitate to "make criminal referrals as appropriate," especially for "someone who repeatedly violates the [Commodity Exchange Act] and [underlying] rules, and/or does so willfully."

### Focused on Energy Market Manipulation

Explaining the division's focus on the energy markets, Director Miller emphasized that "market manipulation in the energy markets is particularly ... harmful" because "price increases in energy markets can ... ripple through the economy, affecting many goods in both production and shipping." Energy prices are influenced by geopolitical events, which can create volatility and high prices, making the futures markets a critical tool for managing price volatility and risk. Director Miller warned "would-be manipulators" that the division "will investigate market manipulation aggressively where we have good reason. And we will prosecute aggressively where we find such manipulation." In the past, similar surges

in energy prices have led to increased CFTC vigilance in the energy markets and multiple requests for information from market participants.

### **Focused on AML and KYC Violations**

Director Miller characterized the AML/KYC rules as “crucial” and “key tools” that are “essential in combating terrorism, narco trafficking, fraud and other serious illegal activity.” The Division of Enforcement will not prioritize “technical violations,” but instead will focus on “those who willfully decide to break these essential laws.” The CFTC will “litigate these cases hard” and will not hesitate to “initiate criminal referrals as appropriate.” While unspoken, we expect the clear focus here to be on digital assets, as the CFTC pursues Chair Michael Selig’s [announced goal](#) of onshoring offshore digital assets trading.

### **Focused on Prediction Markets and Insider Trading**

Seeking to dispel a social media myth “that insider trading is permissible” in prediction markets, Director Miller admonished that “insider trading in the commodity futures and swaps markets is prohibited by the CEA and relevant CFTC regulations.” CEA Section 6(c)(1) and Rule 180.1 “are explicitly modeled after Section 10(b) and SEC Rule 10(b)(5),” which courts have “long held” prohibit a person possessing material nonpublic information from misappropriating it “by trading or tipping in breach of a duty of trust and confidence owed to the source of the information,” when acting with scienter “in connection with a contract for sale of a commodity, future or swap in interstate commerce.”

In the context of prediction markets, Director Miller restated the CFTC’s position that “event contracts are swaps under the broad statutory definition of swaps,” and therefore the “CEA’s anti-fraud provisions apply with full force” to event contracts. Specifically, Director Miller noted three areas of concern: (1) individuals trading using misappropriated information obtained in the course of their employment (citing the recent Kalshi disciplinary actions); (2) “contracts based on the actions or status of a person or small group of people” (for example, injury event contracts); and (3) illegal use of government information. Director Miller emphasized that the exchanges “have important obligations under our core principles relevant to insider trading and market manipulation.” In addition, Director Miller noted that the division has authority to pursue misappropriation “under other provisions of the CEA — including for market manipulation, market abuse, and other fraudulent trading practices.”

### **New Staff Advisory on Cooperation**

Finally, Director Miller joined his recent predecessors in announcing as his first policy initiative a new staff advisory on cooperation (which will rescind the prior February 2025 guidance). Director Miller expects the anticipated policy will accomplish the following: (1) provide a “clear path” to a declination for parties who self-report and cooperate and remediate fully; (2) clarify how the division will assess self-reporting; (3) simplify how cooperation is evaluated; and (4) require full remediation, including “steps to both compensate victims and address corporate deficiencies.”

In concluding, Director Miller stated the division will be guided by three “fundamental” principles: (1) it will be “laser” focused on fighting “serious violations” and “target the conduct that truly causes harm”; (2) it will move “quickly” and “efficiently” with “a willingness to reach declination decisions rapidly where eligible parties are willing to timely self-report and fully cooperate and remediate”; and (3) it will be “fair” and “transparent” as it seeks to “treat every party ... the right way.”

◇ ◇ ◇

*If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:*

Michael L. Spafford  
+1-202-551-1988  
[michaelspafford@paulhastings.com](mailto:michaelspafford@paulhastings.com)

Paul Hastings LLP

Derivatives Download is published solely for the interests of friends and clients of Paul Hastings LLP and should in no way be relied upon or construed as legal advice. The views expressed in this publication reflect those of the authors and not necessarily the views of Paul Hastings. For specific information on recent developments or particular factual situations, the opinion of legal counsel should be sought. These materials may be considered ATTORNEY ADVERTISING in some jurisdictions. Paul Hastings is a limited liability partnership. Copyright © 2026 Paul Hastings LLP.