

February 2025

Follow us on [LinkedIn](#) 

Industry Update

CFTC Advisory on Self-Reporting, Cooperation and Remediation: A Game-Changer for the Industry

By [Brad Bondi](#), [Jaime Madell](#), [Renato Mariotti](#), [Michael L. Spafford](#), [Holly H. Campbell](#) and [Maggie DePoy](#)

This week, the CFTC released an Enforcement Advisory setting forth concrete guidelines for self-reporting, cooperation and remediation that will reshape how market participants report and defend potential violations.

For years, the CFTC refused to quantify the credit that market participants would receive for self-reporting a violation, cooperating with the commission or remediating potential violations. The Enforcement Advisory represents a significant change in the commission's approach that greatly improves transparency, predictability and consistency.

At the core of the advisory's guidance is a simple matrix that sets forth the presumptive discounts that a market participant would receive for self-reporting and cooperation:

	Tier 1: No Cooperation	Tier 2: Satisfactory Cooperation	Tier 3: Excellent Cooperation	Tier 4: Exemplary Cooperation
Tier 1: No Self-Report	0%	10%	20%	35%
Tier 2: Satisfactory Self-Report	10%	20%	30%	45%
Tier 3: Exemplary Self Report	20%	30%	40%	55%

The advisory provides extensive detail defining each of the terms in the matrix above. One remarkable detail in the advisory is that even standard cooperation, such as providing documents voluntarily without requiring a subpoena, could result in a discount to a potential penalty. And now, when weighing a major

move, such as whether to self-report a potential violation or provide extraordinary cooperation, substantial and quantifiable incentives can be weighed against the costs and risks associated with the move.

On top of the standard incentives set forth in the matrix, the advisory indicates that extraordinary cooperation could result in even larger rewards, such as a complete declination. The commission appears to be going out of its way to incentivize the industry to help the CFTC police the markets, now that its responsibilities are expanding without the promise of additional resources.

The commission's approach brings it in line with other government agencies, such as the Department of Justice, that provide concrete incentives for self-reporting. Notably, the CFTC also echoes the DOJ's respect for attorney-client privilege, indicating in the advisory that the wholesale waiver of privilege will not be expected or required as part of its self-reporting and cooperation framework. This is important because self-reporting often occurs after an internal investigation conducted by outside counsel.

It is difficult to overstate how significantly this advisory transforms how market participants may approach the decision of whether to report a potential violation to the commission and how to defend a potential violation that is being investigated by the commission. Until now, the commission has broadly indicated that it would give credit for cooperation or remediation, but without providing any indication of the extent of that credit, it was difficult for market participants to weigh the costs versus the risks associated with self-reporting or cooperation.

This advisory will be central to defending CFTC enforcement matters for years to come.



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

Brad Bondi +1-202-551-1701 / +1-212-318-6601 bradbondi@paulhastings.com	Renato Mariotti +1-312-499-6005 renatomariotti@paulhastings.com	Holly H. Campbell +1-312-499-6099 hollycampbell@paulhastings.com
Jaime Madell +1-202-318-6029 jaimemadell@paulhastings.com	Michael L. Spafford +1-202-551-1998 michaelspafford@paulhastings.com	Maggie DePoy +1-312-499-6068 maggiedepoy@paulhastings.com

Paul Hastings LLP

Stay Current 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 © 2025 Paul Hastings LLP.