

Securities Regulation Daily Wrap Up, TOP STORY—Civil monetary penalties plummet at CFTC in 2017, (Nov. 27, 2017)

Securities Regulation Daily Wrap Up

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The number of enforcement actions and civil monetary penalties dropped sharply at the CFTC during FY2017 compared to last year's figures, and to those of several prior years as well. Civil monetary penalties, along with disgorgement and restitution, imposed by the Commission declined by 68 percent to \$413 million in 2017, down from a level of \$1.29 billion a year earlier. According to [the CFTC's release of annual enforcement results](#), the number of cases brought in 2017 also fell to 49 matters from [68 actions initiated in 2016](#), reflecting a reduction of 28 percent.

The decline in 2017 is even more striking when considering that \$3.14 billion and \$3.27 billion in sanctions were imposed for years [2015](#), and [2014](#), respectively. However, those higher sanction levels are often attributed to the resolution of high profile cases involving money center banks' manipulation of Libor and other benchmarks during those years. Still, the current year levels are also well below those for the years [2013](#), [2012](#), and [2011](#), where \$1.7 billion, \$931 million, and \$450 million in sanctions, respectively, were imposed.

The 49 enforcement cases brought in 2017 also demonstrate a marked decline compared to activity in earlier years. In 2015 and 2014, 69 and 67 matters were brought, respectively. In 2013, 82 actions were initiated, while in 2012 and 2011, 102 and 99 actions were brought, respectively.

Structural developments. The CFTC's release also identified certain undertakings initiated during the fiscal year designed to enhance and increase the effectiveness and strength of the agency's enforcement program. These include:

- The commission realigned its market surveillance unit under the Division of Enforcement (DOE). Under this new alignment, the market surveillance unit, which conducts market analysis to confirm market integrity, will be better positioned to identify areas that may warrant enforcement inquiry and involvement.
- DOE issued new cooperation advisories, which brings DOE's cooperation program in line with other law enforcement agencies. The division also launched a revamped self-reporting program that promises reduced sanctions by encouraging active cooperation with the Commission at early stages in the enforcement process.
- New rules and procedures were put in place that are designed to better protect whistleblowers and to further incentivize whistleblowers to come forward. Nonetheless, the new policies have yet to bear fruit as the CFTC did not pay out any whistleblower awards during FY 2017, even though the whistleblower program received 465 tips during the year.

The release also asserted that during FY2017, the CFTC, through DOE, continued its benchmark rate anti-manipulation enforcement; brought actions to combat disruptive trading practices, including spoofing; and prosecuted retail fraud, which included wrongdoing involving virtual currency markets.

Despite the steep decline in sanctions imposed and a drop in the number of actions initiated in FY2017, DOE Director James McDonald optimistically observed, "The CFTC brought significant enforcement actions, and has also laid the ground work for future success. The integration of the market surveillance unit into the Division of Enforcement, the strengthening of our whistleblower protections, and the development of our cooperation

program will open new avenues through which we can identify misconduct, hold wrongdoers accountable, and deter future violations of the law."

The CFTC's release did not provide any explanation for the steep drop in sanctions imposed or number of actions brought compared to prior years. As of press time, the CFTC had not yet responded to requests for comment.

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