

SPEECHES & TESTIMONY

Remarks of Chairman J. Christopher Giancarlo at Economic Club of Minnesota, Minneapolis, Minnesota

“Regulatory Enforcement & Healthy Markets: Perfect Together!”

October 2, 2018

Introduction

Good afternoon. Thank you for the leadership of the Economic Club and for the invitation to speak here. It is an honor. The Economic Club, in conjunction with the great economics department at the University of Minnesota, has made Minneapolis a center of economic thought. Through economists like Walter Heller, and titanic figures like Bill Frenzel and Mark Olson, Americans listen carefully to the voices that come out of Minneapolis. You provide an important platform for sharing ideas and informing the community. I would particularly like to thank Chairman Mark Kennedy, President Stephen Sanger, and Executive Director Kristin Robbins for making this possible. I also want to recognize my friend, Neel Kashkari.

Today I would like to talk about enforcement of regulations in financial and commodities markets. At the CFTC, regulatory enforcement is a priority and a bipartisan one. As I have made clear many times, there will be no pause, no let up, and no relaxation in the CFTC’s efforts to enforce the law and punish wrongdoing.^[1] We must keep the markets safe and fair for consumers. I am grateful for the commitment of my fellow Commissioners who bring a high degree of intelligence and range of perspectives to bear on enforcement matters. They ask the right questions and seek the right answers to find the right balance in the cause of rule enforcement.

At the CFTC, our mission is to foster open, transparent, competitive, and financially sound markets. We also want our markets to be deep, liquid and vibrant attracting the world’s capital essential to the current resumption of strong economic growth.

Today, I want to talk about why a vigorous enforcement program is essential to fulfilling that mission and why a strong—and disciplined—enforcement program is compatible with strong economic growth and American prosperity. Indeed, those who have studied the issue have concluded that strong enforcement is necessary for strong markets.^[2]

The connection between enforcement and economic growth makes sense. For the economy to grow, businesses and individuals need to know they’re competing on a level playing field. They know—and we know—that’s essential for them to thrive. Unlawful activity puts honest businesses at a disadvantage. It impedes free and fair competition. It dampens economic growth. And it undermines our democratic values, public accountability, and the rule of law. That’s why we’re committed to ensuring all companies and individuals in our markets play by the rules.

I want to talk today about some of the developments in our enforcement program, and some of the ways we’ve worked to grow the program over the past year. I was confirmed as Chairman in August 2017. And our Fiscal Year—which ran from October 2017 through September 2018—just ended. So in offering these thoughts I’ll focus principally on the activities of the Fiscal Year that just closed.

Overview

I’ll start with an overview. Now, I want to make clear that a strong enforcement program is about more than just numbers. You can’t get a complete picture of an enforcement program through quantitative metrics alone. You also don’t want Federal agencies to be motivated to hit certain headline numbers when enforcing the law. That is not sound public policy.

But some have asserted that regulatory agencies under this administration have gone soft on regulatory enforcement. Those critics have primarily used numbers to make their case.^[3] So, I'll spend a few minutes talking about the quantitative measures of the past year—my first year since Senate confirmation—to show that, even on its own terms, this criticism is unfounded. In fact, by any measure, enforcement during this past year has been among the most vigorous in the history of the CFTC.

So, let's do the numbers:^[4]

More enforcement actions. During the last Fiscal Year, the CFTC filed 83 enforcement actions. That's among the highest number of actions in the Commission's history, and an approximately 25% increase from each of the last three years of the prior administration. *A 25% increase.*

More penalties. Not surprisingly, the penalties resulting from those cases also reflect our commitment to combatting wrongdoing in our markets. The total amount of civil monetary penalties imposed by the Agency during the last Fiscal Year was approximately \$900 million. That total is higher than five of the eight years from 2009 to 2016. And of those \$900 million, we collected about \$800 million—or just under 90 percent. That would have ranked second highest during that same eight year period from 2009 to 2016. *The second highest.*

More large-scale matters. When it comes to numbers, total penalty amounts can serve as imprecise measures of success, because a small number of filings with relatively high penalties can account for a large percentage of the overall amount. So, could it be that this year's enforcement program has been driven by a single (or just a few) large cases? In a word, no: This year's enforcement effort reflects the broadest range of significant actions in the history of the Commission. During the last Fiscal Year, we brought more large-scale matters, against those whose actions threaten the basic integrity of the market, than in any previous year in Commission history. From 2009 to 2016, the CFTC imposed monetary judgments of more than \$10 million in an average of three cases per year. This past year, we imposed such monetary judgments in ten cases.^[5] *That's more than three times the previous average.*

Similarly, we have brought more manipulative conduct and spoofing cases than ever before. From 2009 to 2016, the Commission, on average, brought five such cases per year. This year, we filed more than 25—more than five times the previous annual average. *More than five times the previous average.*

More Accountability. But how do you know *who* we're charging? Are we going after the small fish while letting the big ones off the hook? Not a chance. We filed more charges against financial institutions than in all but one of the 8 years from 2009 to 2016. We have prioritized individual accountability, with approximately 70% of our cases involving charges against individuals. And these include significant numbers of individuals at financial institutions, as well as individual traders at proprietary trading firms and managed funds. We've brought these cases without fear or favor. We've given no one a pass.

More partnering with criminal law enforcement. We've also filed far more actions in parallel with our criminal law enforcement partners than in any previous year. We filed 14 such parallel actions this Fiscal Year—more than any other year from 2009 to 2016. This means that wrongdoers in our markets now face the prospect not just of substantial fines, but also, in appropriate cases, the threat of criminal prosecution.

More whistleblower awards. On top of all this, we've developed our whistleblower program in unprecedented ways. We strengthened the protections we provide to whistleblowers that come forward. We granted more whistleblower awards this past Fiscal Year than in the entire history of the program. And we issued the largest whistleblower awards in the history of the Agency. All of this has been designed to ensure more whistleblowers come forward to tell the Agency about any misconduct occurring in our markets. It seems to be working, as we've received more whistleblower tips and complaints this past year than in any previous year.

Record Numbers. So, those are the numbers. By any measure, they are impressive. They demonstrate that the CFTC remains undaunted and effective in pursuit of its enforcement mission.

But as I've said, numbers tell only a small part of the story. In our view, a robust enforcement program should cover the waterfront. It should detect the most pernicious and harmful wrongdoing. It should make clear that nobody—no matter how big or well connected—is above the law. It should charge not only the entities responsible for wrongdoing, but also the individuals who carried out the illegal action. And when criminal prosecution and the prospect of imprisonment are warranted, an effective enforcement program should work alongside its criminal law partners to ensure that justice is achieved. Those are some of the principles we have strived to achieve as part of our enforcement program, and what I'll turn to now.

Manipulative Conduct Cases

Just a moment ago, I highlighted cases involving manipulative conduct or disruptive trade practices like spoofing as particularly noteworthy. Why is that the case?

One primary function of our markets is to facilitate the price discovery process. And one of our principal responsibilities as regulator of these markets is to ensure that the price discovery process is sound. That means identifying, investigating, and aggressively prosecuting those who seek to interfere with this price discovery process. Our experience and market intelligence teaches that manipulative trading practices undermine price discovery, drive liquidity from the markets, and put honest brokers at a disadvantage.

These cases are complex, and they are difficult. They require to us stay one step ahead of the most sophisticated wrongdoers in our markets. As one court put it, “[t]he methods and techniques of manipulation are limited only by the ingenuity of man.”^[6] That is why I have directed CFTC Staff to redouble our efforts to meet the challenges posed by those who might use their ingenuity to undermine the integrity of our markets. And they have delivered.

That's reflected not just in the numbers—not just in the fact that we filed five times more cases involving this type of misconduct than the previous annual average. It's also reflected in the cases themselves.

We continued to file significant cases involving benchmark manipulation.^[7] We filed cases involving traditional forms of manipulative conduct like efforts to corner the market.^[8] We charged new forms of manipulative conduct—like those that abuse technology or seek to manipulate the structure of the electronic order book.^[9] And we've charged particularly complex and novel patterns of manipulation—including those that cross-markets, cross-exchanges, and even cross international borders.^[10]

We've done all this, it bears mentioning, without missing a beat in other areas of our program. At the same time we've focused on the integrity of the price discovery process, we've also continued our commitment to protect customers and root out retail fraud in our markets. More than thirty of our cases this Fiscal Year involve retail fraud. That is in line with the annual average in the past decade at the Agency. These filings range from fraud in the markets for retail forex, precious metals, and virtual currencies among others. Some of these cases—including a series of recent binary options fraud filings—set new precedents within the CFTC for how to aggressively identify and prosecute this type of retail fraud.^[11] And we have not been shy to take these cases to trial, winning significant trial victories in this area over the past year—including a precedent setting victory in a trial involving Bitcoin fraud.^[12]

Coordination with Criminal Authorities and Other Regulators

Coordination with Criminal Authorities

I have given some metrics for the significant ramp up in CFTC coordination with our law enforcement partners and self-regulatory organizations. In particular, we've increased our efforts to work with the Department of Justice (DOJ), as reflected by the significantly increased number of parallel filings this past Fiscal Year.

As I've made clear, a robust combination of criminal and regulatory enforcement in our markets is not only appropriate,^[13] but also critical to deterring violators, punishing misconduct, and preserving market integrity and protecting customers. As part of our goal to deter wrongdoers, we recognize there is no greater deterrent than the prospect of criminal prosecution—and the reality of time in jail.

Perhaps the most notable reflection of our commitment on this score was the announcement of the parallel actions involving spoofing and manipulative conduct we filed together with the Department of Justice in January 2018. A senior member of the Justice Department stated that these filings constituted “the largest futures market criminal enforcement action in Department history.”^[14] *The largest.*

These filings were equally significant for the CFTC. We filed cases charging three financial institutions and six individuals with spoofing and manipulative conduct.^[15] One of the resolutions with a financial institution marked the largest civil monetary penalty ever imposed by the Commission for spoofing-related misconduct.^[16] *The largest.*

But the Commission has taken a number of other actions in parallel with our criminal counterparts as well. These included cases ranging from retail fraud^[17] to virtual currency fraud,^[18] to cases where the defendant sought to obstruct our investigation,^[19] to name a few.

We are grateful to the Department of Justice for their continued coordination in these matters. And we expect this to be an area of continued growth for our enforcement program.

Coordination with Other Regulators and Self-Regulatory Organizations

Beyond our coordination with DOJ, we’ve also focused on increasing coordination with other government agencies and self-regulatory organizations. We can most effectively protect our markets when working closely with these regulatory partners. That’s particularly true as our markets evolve and become more interconnected. Bad actors don’t conform their misconduct to the technical boundaries of different regulatory jurisdictions. So regulators must work together to ensure the entire scope of the misconduct is identified, investigated, and prosecuted—particularly when the wrongdoing stretches across different regulatory jurisdictions.

We’ve done that this past Fiscal Year. Our increased coordination with the SEC is particularly noteworthy. To give you one example, in a series of cases filed in Federal District Court in Florida last week, we took action, in parallel with the SEC, in charging a massive national and international binary options fraud ring, where the alleged fraud spanned across both CFTC and SEC jurisdictions and harmed approximately 75,000 victims.^[20]

To offer another example: Together with parallel actions of the SEC, DOJ, and the Federal Bureau of Investigation (FBI), we filed an action against a trading platform and its CEO for unlawfully offering products margined in Bitcoin without the required anti-money laundering protections in place. We brought the action charging the portion of the activity involving derivatives, the SEC charged the portion relating to equities, and DOJ and the FBI secured an order seizing the platform’s website and shutting it down.^[21]

I want to thank SEC Chairman Clayton and the SEC’s enforcement team for their continued commitment to working together to police and protect our respective markets.

We’ve also coordinated our enforcement activities with self-regulatory organizations like the NFA and the exchanges. In a series of cases involving on-exchange trading misconduct, we brought actions in parallel with exchanges like the CME and NADEX.^[22] We’ve done the same with the National Futures Association (NFA): we’ve filed a number of actions in parallel with the NFA,^[23] but we’ve also called upon NFA to collect restitution, assist in identifying victims, and serve as a post-judgment monitor.^[24]

All of this reflects the view that as regulators, we are better together than we are on our own. This point—that we’re better together—is uncontroversial. But it’s a lot easier to say than it is to achieve. It requires a daily commitment from all involved to work together, to accommodate one another, and—from time to time—to give each other the benefit of the doubt. I have made it clear this is what I expect our Staff to do. Leaders of the other agencies and organizations have made it clear that’s what they expect as well. And it’s what the American people expect. I am grateful to the Staff of the CFTC and of our sister agencies and organizations for following through on this commitment.

Individual Accountability

Another priority for our enforcement program has been to enhance individual accountability. It's becoming widely recognized across the enforcement community that one of the most effective ways to combat corporate misconduct is by seeking accountability from individuals who committed the wrongful acts. Individual accountability ensures that the person committing the illegal act is held responsible and punished; it deters others, fearful of facing individual punishment, from breaking the law in the future; it incentivizes companies to develop cultures of compliance and to report to regulators when they find bad actors in their entity; and it promotes the public's confidence that we are achieving justice.

This past year, we made great strides in achieving this goal of individual accountability. During the last Fiscal Year, approximately 70% of the Commission's actions involved charges against one or more individuals. These charges—particularly when coupled with our increased coordination with the criminal authorities—should send a significant deterrent message to those in our markets who might otherwise be tempted to engage in wrongdoing.

Part of our effort to increase individual accountability has involved the continued development of our cooperation and self-reporting program.^[25] This cooperation program was started by my predecessor, Chairman Massad. It had my support then and I embrace it today. This program—which grants substantial benefits to those who come forward, take responsibility for their own wrongdoing, and assist in the Commission's investigations—has allowed us to bring cases and charge individuals that we would not otherwise have been able to charge.

The end goal here extends well beyond the number of cases filed. We intend for our enhanced emphasis on individual accountability, cooperation, and self-reporting to have a far broader social impact. That is, to foster a culture of compliance in our markets. I can imagine a CEO standing in front of the company's new hires on their first day on the job. I can imagine the CEO telling the new staff about the various trainings to come as part of the onboarding process—compliance, ethics, human resources and the like. And I imagine—this is our goal with the cooperation and self-reporting program—the CEO telling the new staff that, notwithstanding these various internal company regimes, if they break the law, their problems won't stop with the compliance, ethics, or human resources department. Their problems will come from the CFTC, DOJ, and the FBI. Because the CEO is committed to identifying any misconduct, and reporting it out to the relevant authorities. That sort of commitment is what we're seeking to foster.^[26] And that sort of commitment, we believe, is what creates the culture of compliance we want in all of our market participants.

This is the point, ladies and gentlemen. The purpose of regulatory enforcement is a reasoned and disciplined one: to foster a culture of compliance in US financial markets. A culture of ethical behavior that underpins open, competitive, and vibrant market activity essential to strong economic growth and American prosperity.

Whistleblower Office

Finally, we have emphasized the integral role our Whistleblower Program plays in our enforcement effort and for the Agency more broadly. Demonstrating our commitment to protecting whistleblowers, the Commission finalized Rules prohibiting employers from retaliating against whistleblowers and from taking steps to impede would-be whistleblowers from coming forward.^[27]

A goal in strengthening the whistleblower protections was, of course, to ensure that whistleblowers would not be penalized for their decisions to come forward to report wrongdoing. But the programmatic goal was broader: To offer whistleblowers additional incentives to report wrongdoing to the Commission, thus increasing both the quantity and quality of information available to us about misconduct in our markets.

In the same vein, the Commission also highlighted the incentives for whistleblowers to come forward through the awards it issued this past year. Coming into this Fiscal Year, the Commission had issued a total of four whistleblower awards. This past year, the Commission issued five such awards—more than the cumulative total previously issued. The five awards from last Fiscal Year total more than \$75 million. This includes the CFTC's largest ever award of approximately \$30 million.

Our goal to incentivize more whistleblowers to come forward appears to be working. Whistleblowers submitted more tips and complaints to the CFTC than in any previous year. I expect this area to continue to grow as well.

Conclusion

Before I entered government service, I spent a decade and a half working on Wall Street. My commitment to robust regulatory enforcement derives from that experience. I have enormous respect for the good men and women of America's financial service industry who conduct themselves each and every day with integrity and honesty. They are the ones who are betrayed by the very few who engage in wrongful behavior.

It is the duty of government generally and the particular mission of the CFTC to fairly enforce market regulation and prosecute bad actors. We must fulfill that mission so that America's financial markets are places for good people to fulfill their dreams, grow the economy and increase prosperity.

I have been critical of past policy choices that seemed blind to adverse implications for economic growth and vitality. As someone who serves during an administration pledged to broad based prosperity, I believe the CFTC's commitment to robust enforcement plays an important role in the health and safety of US financial markets. I am certain that, when conducted in a disciplined fashion, active enforcement is compatible with vibrant economic growth.

In my home state of New Jersey, we have a slogan: New Jersey & you – perfect together. As the Chairman of the CFTC, I have a similar saying: "Regulatory enforcement & healthy markets: perfect together!"

I began by talking about some of the great voices out of Minnesota. One of them was Walter Heller, a giant in the field and head of the Council of Economic Advisors under Presidents Kennedy and Johnson. He put the Economics Department on the map at University of Minnesota and was well known to many of the founders of the Economics Club. Perhaps the most famous remark by Dr. Heller was that in economics we should focus on the "practicalities." Principle may guide us, but we must not forget the practicalities.

I believe enforcement is a way that principles are practicalities. By enforcing our principles we make the practicalities of commerce work in ways that benefit all Americans.

Thank you.

[1] See J. Christopher Giancarlo, Remarks of Acting Chairman J. Christopher Giancarlo Before the 42nd Annual International Futures Industry Conference (Mar. 15, 2017), http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-20#P17_3230.

[2] See John C. Coffee, Jr., *Law and the Market: The Impact of Enforcement*, 156 U. Pa. L. Rev. 229, 242-46 (2007) (explaining that vigorous enforcement in U.S. markets contributes to higher valuations and reduced cost of capital).

[3] See, "Wall Street Impunity: On the Ten-Year Anniversary of the 2008 Financial Crisis, the Trump Administration Is Prepared to Go Soft on Big Banks," Public Citizen, Sept. 6, 2018, at: https://www.citizen.org/sites/default/files/wall_street_crash_enforcement_v13.pdf

[4] The CFTC will publish final fiscal year enforcement statistics in fourth quarter 2018.

[5] *In re Cargill, Inc.*, CFTC No. 18-03 (Nov. 6, 2017); *In re Deutsche Bank AG*, CFTC No. 18-06 (Jan. 29, 2018); *In re UBS AG*, CFTC No. 18-07 (Jan. 29, 2018); *In re Deutsche Bank Securities Inc.*, CFTC No. 18-09 (Feb. 1, 2018); *In re Société Générale S. A.*, CFTC No. 18-14 (June 4, 2018); *In re JPMorgan Chase Bank, N.A.*, CFTC No. 18-15 (June 18, 2018); *In re BNP Paribas Securities Corp.*, CFTC No. 18-19 (Aug. 29, 2018); *In re ICAP Capital Markets LLC*, CFTC No. 18-33 (Sept. 18, 2018); *In re Bank of America, N.A.*, CFTC No. 18-34 (Sept. 19, 2018); *In re Kooima & Kaemingk Commodities, Inc.*, CFTC No. 18-39 (Sept. 26, 2018).

[6] *Cargill v. Hardin*, 452 F.2d 1154, 1163 (8th Cir. 1971).

[7] *In re Deutsche Bank Securities Inc.*, CFTC No. 18-09 (Feb. 1, 2018); *In re Société Générale S. A.*, CFTC No. 18-14 (June 4, 2018); *In re JPMorgan Chase Bank, N.A.*, CFTC No. 18-15 (June 18, 2018); *In re BNP Paribas Securities Corp.*, CFTC No. 18-19 (Aug. 29, 2018); *In re ICAP Capital Markets LLC*, CFTC No. 18-33 (Sept. 18, 2018); *In re Bank of America, N.A.*, CFTC No. 18-34 (Sept. 19, 2018).

[8] *E.g.*, *In re Statoil ASA*, CFTC No. 18-04 (Nov. 14, 2017).

[9] *E.g.*, *CFTC v. Thakkar*, No. 18-CV-00619 (N.D. Ill. filed Jan. 28, 2018); *In re Geneva Trading USA, LLC.*, CFTC No. 18-37 (Sept. 20, 2018).

[10] *E.g.*, *In re Victory Asset, Inc.*, CFTC No. 18-36 (Sept. 19, 2018); *In re Ramsey*, CFTC No. 18-49 (Sept. 27, 2018).

[11] *CFTC v. Atkinson*, No. 18-CV-23992 (S.D. Fl. filed Sept. 27, 2018); *CFTC v. Montano*, 18-CV-1607 (M.D. Fl. filed Sept. 27, 2018); *In re Berry*, CFTC No. 18-42 (Sept. 27, 2018); *In re Pollen*, CFTC No. 18-43 (Sept. 27, 2018); *In re Barrett*, CFTC No. 18-44 (Sept. 27, 2018); *In re Brookshire*, CFTC No. 18-45 (Sept. 27, 2018); *In re Schranz*, CFTC No. 18-46 (Sept. 27, 2018); *In re Giacca*, CFTC No. 18-47 (Sept. 27, 2018); *In re Stephenson*, CFTC No. 18-48 (Sept. 27, 2018).

- [12] See *CFTC v. McDonnell*, No. 18-CV-361, 2018 WL 4090784 (E.D.N.Y. Aug. 28, 2018); see also *CFTC v. Gramalegui*, No. 15-CV-02313, 2018 WL 4610953 (D. Colo. Sept. 26, 2018).
- [13] Section 9(a)(5) of the Commodities Exchange Act, 7 U.S.C. § 13(a)(5) (2012) (explaining that violations of the federal commodities laws and regulations can constitute a criminal violation if done “willfully”).
- [14] John P. Cronan, Acting Assistant Attorney General John P. Cronan Announces Futures Markets Spoofing Takedown (Jan. 29, 2018).
- [15] See James M. McDonald, Statement in Connection with Manipulation and Spoofing Filings (Jan. 29, 2018) (announcing filings of eight actions—charging six individuals and four companies—with manipulative and spoofing misconduct, which included the announcement of the largest penalty ever imposed by the CFTC for spoofing-related misconduct).
- [16] *In re Deutsche Bank AG, Inc.*, CFTC No. 18-06 (Jan. 29, 2018).
- [17] *CFTC v. Carter*, No. 18-CV-00242 (N.D. Ill. filed Jan. 12, 2018).
- [18] *CFTC v. Kantor*, No. 18-CV-02247 (E.D.N.Y. filed Apr. 17, 2018).
- [19] *CFTC v. Landgarten*, No. 18-CV-03824 (E.D.N.Y. filed July 2, 2018).
- [20] *CFTC v. Atkinson*, No. 18-CV-23992 (S.D. Fl. filed Sept. 27, 2018); *CFTC v. Montano*, 18-CV-1607 (M.D. Fl. filed Sept. 27, 2018); *In re Berry*, CFTC No. 18-42 (Sept. 27, 2018); *In re Pollen*, CFTC No. 18-43 (Sept. 27, 2018); *In re Barrett*, CFTC No. 18-44 (Sept. 27, 2018); *In re Brookshire*, CFTC No. 18-45 (Sept. 27, 2018); *In re Schranz*, CFTC No. 18-46 (Sept. 27, 2018); *In re Giacca*, CFTC No. 18-47 (Sept. 27, 2018); *In re Stephenson*, CFTC No. 18-48 (Sept. 27, 2018).
- [21] *CFTC v. 1Pool Ltd.*, No. 18-CV-02243 (D.D.C. filed Sept. 27, 2018); see also Federal Bureau of Investigation, Information on 1Broker.com Seizure (Sept. 27, 2018), at: <https://www.fbi.gov/investigate/cyber/information-on-1broker-com-seizure> (detailing seizure of 1Broker.com trading platform).
- [22] E.g., *In re Arab Global Commodities DMCC*, CFTC No. 18-01 (Oct. 10, 2017); *In re Lansing Trade Group, LLC*, CFTC No. 18-16 (July 12, 2018); *In re Singhal*, CFTC No. 18-11 (Apr. 9, 2018); *In re Geneva Trading USA, LLC.*, No. 18-37 (Sept. 20, 2018); *In re Kooima & Kaemingk Commodities, Inc.*, CFTC No. 18-39 (Sept. 26, 2018); *In re Ramsey*, CFTC No. 18-49 (Sept. 27, 2018).
- [23] *In re X-Change Financial Access LLC*, CFTC No. 18-13 (May 29, 2018); *CFTC v. R.J. O’Brien & Associates LLC*, CFTC No. 18-17 (July 30, 2018); *In re Global Asset Advisors*, CFTC No. 18-30 (Sept. 14, 2018).
- [24] E.g., *In re Kooima & Kaemingk Commodities, Inc.*, CFTC No. 18-39 (Sept. 26, 2018).
- [25] See James M. McDonald, Perspectives on Enforcement (Sept. 25, 2017), at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/opamcdonald092517>; see also Mark A. Cohen, *Theories of Punishment and Empirical Trends in Corporate Criminal Sanctions*, 17 Managerial & Decision Econ. 299, 406-08 (1996) (finding that company cooperation increased likelihood of individual convictions).
- [26] See, e.g., Jennifer Arlen and Reinier Kraakman, *Controlling Corporate Misconduct: An Analysis of Corporate Liability Regimes*, 72 N.Y.U. L. Rev. 687, 689-94 (1997) (explaining that, to optimize deterrence, enforcement regimes should induce firms to take effective steps to monitor and detect misconduct, report any violations detected, and fully cooperate with authorities to bring individual wrongdoers to justice).
- [27] See 17 C.F.R. §§ 165.19-20 (2017). The amendments to the rules also enhance the award claims review process and clarify when a whistleblower may receive an award in both the Commission’s action and in a related action. See 17 C.F.R. §§ 165.7 (f) – (l), 165.11(a) (2017).