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CFTC Releases Enforcement Division's Annual Results

Agency filed 102 enforcement actions, the highest number of cases ever for the CFTC in one year, bringing the two-year total to more than 200 actions.

Washington, DC - The Commodity Futures Trading Commission (CFTC) today announced that it filed 102 enforcement cases in fiscal year 2012 (FY 12). During the past two fiscal years, the Commission filed a total of 201 enforcement actions, representing a significant increase from past years. The Division of Enforcement (Division) also opened more than 350 new investigations in FY 12, among the highest annual count of new investigations in program history. In addition, the Division obtained orders imposing more than $931 million in sanctions, including orders imposing more than $475 million in civil monetary penalties and directing the payment of more than $456 million in restitution and disgorgement.

David Meister, the CFTC's Enforcement Division Director stated, "We pursue unlawful conduct to protect market participants and promote market integrity. As we look back on this year's results, the Division can say with confidence that we have effectively responded to the significant wrongdoing uncovered under the Act and regulations. The Division's lawyers, investigators, paralegals and administrative staff are committed to investigating and litigating cases that have the greatest impact, whether they are against some of the world's largest financial institutions for attempted manipulation, false reporting, customer fund violations, wash trading, or supervision failures, or against a Ponzi schemer who perpetrates a multi-million dollar scam on the unsuspecting public. We have begun to use our new Dodd-Frank authority, and, as we look forward, we will continue to do so as more new rules become effective. I applaud the staff for their hard work and dedication to the task, and am honored to work alongside them."

Overview of FY 2012 CFTC Enforcement Actions:

Cases Involving Manipulation, False Reporting, Wash Trades and Position Limits

- In a landmark case, the Division filed charges against Barclays PLC and two affiliates for attempted manipulation and false reporting concerning LIBOR and other global benchmark interest rates. The charges were simultaneously settled pursuant to an Order requiring Barclays to pay $200 million, the largest fine ever imposed by the CFTC, and requiring Barclays to implement a number of measures to ensure the integrity of the bank's benchmark submissions.
- The Division settled charges previously filed in federal court against a global proprietary trading company Optiver Holding BV, two of its subsidiaries and three then company officers for manipulating and attempting to manipulate crude oil and other energy futures contracts. The court-approved settlement required the defendants to pay $14 million and included trading limitations for one of the corporate defendants and the three individual defendants.
- The Division filed charges against Joseph F. Welsh, a former broker with MF Global, alleging that Welsh attempted to manipulate prices of palladium and platinum futures contracts, and with aiding and abetting the attempted manipulations of Christopher L. Pia, a former portfolio manager of Moore Capital Management, LLC. Both Pia and Moore Capital settled the separate actions against them prior to FY 12. The case against Welsh is pending in federal court in New York.

- The Division filed charges against Royal Bank of Canada (RBC), alleging a multi-hundred million dollar wash trading scheme involving stock futures contracts. The CFTC's complaint, which is pending in federal court in New York, also alleged that RBC made false statements concerning material aspects of its wash sale scheme to OneChicago, LLC, an electronic futures exchange, and to CME Group, Inc.
- The Division filed a number of separate actions against traders who exceeded the limits on the quantity of futures contracts they were lawfully permitted to hold, in the cotton, wheat, corn and soybean markets. The penalties imposed in these cases pursuant to settlement orders ranged from $140,000 to $600,000, and in one case the sanction included disgorgement of $1 million in profits made from the excessively large position.

Cases Involving Customer Funds Safeguards and Supervision Obligations

- The Division filed charges against Peregrine Financial Group Inc., a futures commission merchant, and its owner, Russell R. Wasendorf, Sr. alleging misappropriation of customer funds, violations of customer fund segregation laws, and making material false statements to the CFTC. The suit, which is pending in federal court in Chicago, was filed within 24 hours after the fraud came to light.
- The Division filed charges against JPMorgan Chase Bank for its unlawful handling of Lehman Brothers, Inc.'s customer funds prior to and after Lehman filed for bankruptcy in the midst of the financial crisis of 2008. The charges were simultaneously settled pursuant to an Order requiring JPMorgan to pay $20 million, the largest CFTC sanction for a segregated fund violation to date.
- The Division filed charges against MBF Clearing Corp. (MBF), a registered futures commission merchant, alleging that MBF violated laws requiring the segregation of customer funds and that the firm failed to adhere to its supervision obligations. The case is pending in federal court in New York.
- The Division filed charges against Forex Capital Markets LLC (FXCM), a retail foreign exchange (forex) dealer, for failing to supervise the handling of more than 57,000 customer accounts that were disadvantaged by FXCM's system that allowed for one-sided "slippage" in forex prices. The charges, which also included a separate violation for FXCM's failure to produce certain records promptly to the Division, were settled simultaneously pursuant to an Order requiring FXCM to pay more than $14 million.
- The Division filed charges against Goldman Sachs Execution & Clearing, L.P. (GSEC), a futures commission merchant, for supervision violations arising from GSEC's failure to investigate signs of questionable conduct by a GSEC client. The charges were simultaneously settled pursuant to an Order requiring GSEC to pay $7 million.
- The Division filed charges against Rosenthal Collins Group, LLC (RCG), a futures commission merchant, for failing to supervise an RCG account that an RCG client was using to perpetrate a multi-million dollar commodity futures Ponzi scheme. (The Division charged the RCG client, Enrique F. Villalba, and his company for the underlying fraud prior to FY 12.) The charges against RCG were simultaneously settled pursuant to an Order requiring RCG to pay $2.5 million.

Cases Involving Ponzi and other Fraud Schemes, and False Statements to the CFTC

- The Division filed charges against Ronnie Wilson and Atlantic Bullion & Coin, Inc. alleging that they operated a $90 million Ponzi scheme involving fraudulent contracts for purchases and sales of silver. The complaint, which is pending in a federal court in South Carolina, uses the agency's new Dodd-Frank authority prohibiting fraud schemes in connection with a contract of sale of a commodity in interstate commerce.
- The Division filed charges against Nikolai S. Battoo and his four companies alleging fraud in connection with commodity pools that allegedly accepted over $140 million from U.S. investors. The case is pending in federal court in Chicago.
- The Division filed charges against Steven Pousa of Australia, Joel Friant of the United States and their company Investment Intelligence Corp, alleging they conducted a global fraudulent off-exchange forex scheme, allegedly accepting at least $53 million from at least 960 clients. The case is pending in a federal court in Texas.
- The Division filed charges against Donald Newell and his company Quiddity LLC, a registered commodity pool operator and trading advisor, alleging that they fraudulently allocated more profitable trades to themselves and less profitable trades to their customers. The Division also charged Newell under the agency's new Dodd-Frank authority with making material false statements to the Division during its investigation of this matter. The case is pending in federal court in Chicago.

Cooperation with Law Enforcement Partners

In FY 12, the Division worked actively with federal and state criminal and civil law enforcement authorities, including by assisting them in more than 200 investigations and prosecutions, 50 of which were related to separate actions commenced by the CFTC. The Division also continued to work with international regulators. For example, in FY12 the Division received responses to more than 300 requests for assistance that the Division made of more than 70 different regulators under the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information, and other information-sharing arrangements. The international regulatory community has been instrumental to the CFTC's success in a number of important actions.

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