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New CFTC Enforcement Director Speaks on Priorities, Insider Trading in Prediction Markets, and Cooperation

Emphasizing an end to “regulation by enforcement,” the agency will focus on market integrity and fraud offenses and partner with registered exchanges and other authorities.

On March 31, 2026, David I. Miller, the newly appointed Director of Enforcement at the Commodity Futures Trading Commission (CFTC or the Commission), delivered remarks at NYU School of Law outlining the Division of Enforcement’s priorities under CFTC Chairman Michael Selig’s leadership.¹

Noting that “[t]he era of regulation by enforcement is over,” Director Miller outlined five key areas of focus for the Division of Enforcement: (1) insider trading; (2) market manipulation; (3) disruptive trading; (4) retail fraud; and (5) willful anti-money laundering (AML) and know-your-customer (KYC) violations. According to Director Miller, each of these five areas “reflects our core mission: protecting market integrity by targeting fraud, abuse, and manipulation.” He added that the Division of Enforcement is “committed to addressing these priority areas” and “will be hiring additional staff” to help do so.

Director Miller also described how the Commodity Exchange Act (CEA) and CFTC regulations prohibit insider trading — misappropriation of confidential information — in CFTC-regulated markets, including prediction markets. He emphasized that insider trading in prediction markets will be investigated and, when appropriate, pursued for enforcement.

Finally, the Director’s remarks previewed that the Division of Enforcement will soon replace its February 2025 guidance with a new advisory on self-reporting and cooperation, in an effort to provide greater clarity and incentives to come forward with information about misconduct.

Each of these announcements represents an evolution in the agency’s approach that merits attention from industry participants.

Five Enforcement Priorities

In his remarks, Director Miller identified five priorities for the CFTC Division of Enforcement.

1. Insider Trading

As an initial matter, Director Miller confirmed that insider trading is illegal under the CEA and CFTC regulations, explaining that the CFTC's authority in this area centers on misappropriation of material non-public information (MNPI) used in violation of a duty to the source of the information. He referenced both the CFTC's broad antifraud provisions, such as Section 6(c)(1) of the CEA and CFTC Rule 180.1, and its specific rule for government information, Section 4c(a)(4) of the CEA. While noting that CFTC-regulated markets are "price-discovery markets, not disclosure-based markets," and that market participants are entitled to use their own knowledge and information to make trading decisions, Director Miller said that doing so in breach of a duty of confidentiality has "serious consequences for market integrity and trust." Describing past cases, he added that the Division will pursue those who trade on or tip others with misappropriated information.²

2. Market Manipulation

The Division's second priority is market manipulation, with particular emphasis on energy markets. Director Miller explained that energy markets are uniquely susceptible to harm from manipulation because energy has "inelastic demand and limited substitutability" — people must buy gas even when prices go up. He noted that price increases in energy markets "can also have broad inflationary effects because energy costs ripple through the economy, affecting many goods in both production and shipping," and that geopolitical events may cause market conditions that can be "tempting to would-be manipulators."³

3. Disruptive Trading

The third priority area is abusive market conduct, including spoofing, wash trading, and disruptive trading during a closing period. Director Miller noted that functioning markets "provide price transparency and the fairest prices," and breaking those rules "reduces efficiency, distorts price signals, and can raise prices."

4. Retail Fraud

The Division will also continue to fight retail fraud, including Ponzi schemes, commodity pool fraud, so-called "pig butchering" schemes, impersonation fraud, and phishing attacks directed at individuals. Director Miller said retail fraud "often targets at-risk populations — the elderly, those with limited financial literacy, and, frequently, the individuals who can least afford to lose their savings." He observed that fraudsters may employ innovative techniques, including AI-created images and videos, targeted communications on social media platforms, and fake websites.

5. Willful AML/KYC Violations

Finally, Director Miller stated that the Division of Enforcement will pursue willful failures to follow AML and KYC laws and rules. He emphasized that the Division is “not prioritizing technical violations, but rather those who willfully decide to break these essential laws.” He noted that AML and KYC laws are “essential in combatting terrorism, narco trafficking, fraud, and other serious illegal activity,” and that the Division will also initiate criminal referrals when appropriate.

Spotlight on Insider Trading in Prediction Markets

Director Miller devoted significant attention to insider trading in prediction markets, directly addressing what he described as a “myth” that insider trading law does not apply in these markets. He explained that Section 6(c)(1) of the CEA and CFTC Rule 180.1 permit the Commission to pursue enforcement against those who misappropriate information to trade in CFTC-regulated markets. He observed that, in his experience as a former prosecutor and defense lawyer, “those who hold MNPI are often subject to a web of legal and confidentiality obligations. With sports leagues or major corporations, chances are that trading on information you learn from work is going to breach duties of trust and confidence and subject you to insider trading liability.” Director Miller also noted that, similarly, Section 4c(a)(4) of the CEA — the so-called “Eddie Murphy Rule” — “prohibits government employees from trading based on MNPI relating to government action while having inside information.”⁴

Director Miller emphasized the role of registered exchanges that offer prediction markets as the “first lines of defense” in identifying and preventing insider trading, as well as market manipulation. He highlighted that exchanges must “have appropriate surveillance, compliance practices and procedures, promote fair and equitable trading, protect markets from abusive practices, and ... only list contracts that are not susceptible to manipulation.” Moreover, he noted that the CFTC’s recent advisory on prediction markets suggests additional steps exchanges can take, such as establishing information-sharing arrangements with sports leagues and integrity-monitoring organizations, much like the CFTC’s own recent Memorandum of Understanding (MOU) with Major League Baseball,⁵ which provides a mechanism for exchange of information to protect relevant event contracts from fraud, manipulation, and other abuses.⁶

Self-Reporting and Cooperation With the CFTC

Finally, Director Miller announced that the CFTC Division of Enforcement will soon issue a new staff advisory on cooperation and rescind the current policy from February 2025. The new advisory will aim to incentivize cooperation, simplify the Division’s approach, and be fair to parties. Director Miller previewed that, “absent aggravating circumstances,” the forthcoming policy will provide “a clear path to a declination” for an eligible party who self-reports, cooperates fully, and remediates fully. The new advisory will take a broader approach to self-reporting, allowing credit as long as the party does not “know[] or suspect[] there is an imminent disclosure from another source,” even if “the CFTC already knew about the issue confidentially.” By contrast, the advisory may take a stricter view of cooperation, with Director Miller noting that “[c]ooperation will be binary ... you’re either in a hundred percent or you’re out.” The precise contours of the updated policy will become clear when the agency issues the new advisory.

Key Questions and Takeaways

The CFTC's five areas of focus advance the administration's "back to basics" approach to enforcement by emphasizing market integrity and fraud offenses. At the same time, their breadth portends increased enforcement activity, including in innovative areas like prediction markets. When investigations involve novel products and nascent markets, ending "regulation by enforcement" requires that enforcement actions follow, rather than replace, clear regulatory guidance. It remains to be seen how the agency will approach enforcement in these core areas if and when they implicate novel regulatory issues.

Moreover, while emphasizing these five areas, Director Miller did not preclude other types of cases. Indeed, he stated: "There is one thing I would like to mention about other areas of enforcement I have not discussed today. Even within those areas, including compliance, if we have someone who repeatedly violates the CEA and our rules, and/or does so willfully, we are not going to sit idly by — we are going to do something about it." What other types of cases the agency may bring, and in what circumstances, remain open questions.

The breadth of the CFTC's enforcement program also highlights that the agency has a great deal of ground to cover with limited resources. Director Miller noted that the Division of Enforcement will be hiring additional staff to help address its priority areas. He also stressed that exchanges perform surveillance and compliance functions that "are a critical line of defense," and he underlined the CFTC's partnership with the SEC, self-regulatory organizations, state regulators, and the Department of Justice, as well as its new MOU with Major League Baseball. The industry will be keen to see how the CFTC marshals these various resources, and when it chooses to bring cases or defers to other authorities to do so.

Finally, by providing a clearer path to declinations, the CFTC's forthcoming policy update on self-reporting and cooperation may incentivize more frequent reports of potential misconduct. Whether it does so will depend on the policy's contours and how the agency recognizes self-reporting and cooperation in its enforcement decisions. As always, a company that becomes aware of potential wrongdoing but does not yet have all the facts may need to navigate a complex set of factors in determining how to proceed.

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Endnotes

- ¹ Director Miller's full speech is available here: <https://www.cftc.gov/PressRoom/SpeechesTestimony/opamiller1> and here: https://wp.nyu.edu/compliance_enforcement/2026/04/01/pcce-hosts-cftc-enforcement-director-david-miller-to-discuss-cftc-enforcement-priorities-insider-trading-in-the-prediction-markets-and-cooperation-with-the-cftc/.
- ² For a primer on CFTC insider trading enforcement, see Douglas K. Yatter, Sohom Datta & Cameron J. Sinsheimer, "Insider Trading in Commodities Markets: An Evolving Enforcement Priority," 54 Rev. Sec. & Commodities Reg. 143 (2021), https://www.rscrpubs.com/Cover_Yatter_Datta_Sinsheimer_RSCR_6-16-21.pdf.
- ³ For background on market manipulation claims, see Douglas K. Yatter, Matthew Valenti & Deric Behar, "Regulators Are Setting Sights on Crypto Market Manipulation," Law360 (Feb. 15, 2023), <https://www.law360.com/articles/1576286/regulators-are-setting-sights-on-crypto-market-manipulation>.
- ⁴ This provision was added to the CEA by the Dodd-Frank Act in 2010 to address a perceived gap for confidential government information, like the crop report at issue in the plot of the 1983 Eddie Murphy movie *Trading Places*. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 746, 124 Stat. 1376 (2010).
- ⁵ See Memorandum of Understanding Between the U.S. Commodity Futures Trading Comm'n and Major League Baseball, CFTC, (Mar. 19, 2026), available at: https://www.cftc.gov/media/13516/CFTC-MLB_MOU/download.
- ⁶ For background on enforcement in prediction markets, see Douglas K. Yatter, Yvette Valdez & Iris Xie, "Why Prediction Market Regulation Is At Major Inflection Point," Law360 (Mar. 16, 2026), <https://www.lw.com/admin/upload/SiteAttachments/Why-Prediction-Market-Regulation-Is-At-Major-Inflection-Point.pdf>.