

**THOUGHT LEADERSHIP**

LEGAL UPDATES

PUBLISHED: MARCH 19, 2025

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# Acting CFTC Chairman Caroline D. Pham Releases Additional Enforcement Guidance

On March 11, acting Commodity Futures Trading Commission (CFTC) Chairman Caroline D. Pham offered insight into the regulator's February 25, 2025 advisory in a keynote address delivered at Boca, the annual International Futures Industry Conference.

The February 2025 advisory permits registered entities to self-report a violation or non-compliance issue to any CFTC operating division, not just the Division of Enforcement (DOE). Acting Chairman Pham stated that the CFTC plans to issue another advisory containing "materiality criteria" that will be used by operating divisions to decide whether to refer a material non-compliance issue to the DOE. While this criteria will not take away operating divisions' "sole discretion" over determining whether to refer a matter for enforcement, it will ensure that they "appropriately address supervisory or compliance issues that are not material directly with the registrant or registered entity." The end goal is to make registered entities aware of the true risk of enforcement when they decide whether to self-report.

While the materiality criteria are still forthcoming, acting Chairman Pham stated in her address that enforcement should be reserved for material violations involving "**willful misconduct or abuse; harm to clients, counterparties, or customers; or significant financial losses**" and non-compliance issues involving "**especially egregious or prolonged systemic deficiencies, material weakness, or willful misconduct by management.**" In the case of non-compliance, enforcement is more appropriate if the registered entity has reported the issue to a CFTC operating division but then let a significant period of time—four or five years, in the case

of a large financial institution—pass without taking any meaningful remedial action.

Additionally, acting Chairman Pham announced a “30-Day Compliance and Remediation Initiative” during which the CFTC will “expeditiously” resolve all pending investigations and enforcement matters involving compliance issues without customer harm or market abuse. The chairman encouraged any registered entity involved in such a case to contact the DOE, provide an update on its remediation plans, and make a reasonable settlement offer based on commensurate cases and the February 25 Advisory guidance, including the mitigation credit matrix. A registered entity can initiate a new self-report within the 30-day window and still take advantage of the initiative.

**Contact us**

If your company could benefit from this new 30-Day Compliance and Remediation Initiative, or you otherwise have questions about this additional guidance from the CFTC, please contact Kip Randall, Sydney Sznajder, or your Husch Blackwell attorney.