

February 24, 2026

# Commodities Enforcement and the CFTC

## WEBINAR

GIBSON DUNN

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- Approved for 1.0-hour General PP credit.
- CLE credit form must be submitted by ***Tuesday, March 3<sup>rd</sup>***.
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- Most participants should anticipate receiving their certificate of attendance in four to eight weeks following the webcast.
- **Please direct all questions regarding MCLE to [CLE@gibsondunn.com](mailto:CLE@gibsondunn.com).**



# AGENDA

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**01** Welcome & Opening Remarks

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**02** CFTC Enforcement at a Glance

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**03** Enforcement Statistics

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**04** Enforcement Reforms

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**05** 30-Day Compliance and Enforcement Sprint

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**06** Other Significant Developments

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**07** Conclusion

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# WELCOME & OPENING REMARKS

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# Our Speakers



**David P. Burns**  
**Partner / Washington, D.C.**

David P. Burns is a litigation partner in the Washington, D.C., office of Gibson, Dunn & Crutcher. He is the co-chair of the firm's National Security Practice Group, and a member of the White Collar and Investigations and Crisis Management Practice Groups. His practice focuses on white-collar criminal defense, internal investigations, national security, and regulatory enforcement matters.



**Amy Feagles**  
**Partner / Washington, D.C.**

Amy Feagles is a partner in the Washington, D.C. office of Gibson, Dunn & Crutcher. She practices in the firm's Litigation Department and is a member of its Antitrust and Competition and White Collar Defense and Investigations Practice Groups. Amy's practice encompasses a wide range of experience in internal investigations, regulatory and criminal investigations, and complex commercial litigation across a range of industries, including financial services.



**Jeffrey L. Steiner**  
**Partner / Washington, D.C.**

Jeffrey L. Steiner is a partner in the Washington, D.C. office of Gibson, Dunn & Crutcher. He is Chair of the firm's Derivatives Practice Group and Co-Chair of the firm's Financial Regulatory and Fintech and Digital Assets Practice Groups. Mr. Steiner advises a range of clients on regulatory, legislative, enforcement and transactional matters related to OTC and listed derivatives, commodities and securities.

# CFTC Enforcement at a Glance

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**“The mission of the Division of Enforcement . . . is to protect the public and preserve market integrity by detecting, investigating, and prosecuting violations of the Commodity Exchange Act . . . and CFTC Regulations.”**

# Enforcement Pipeline



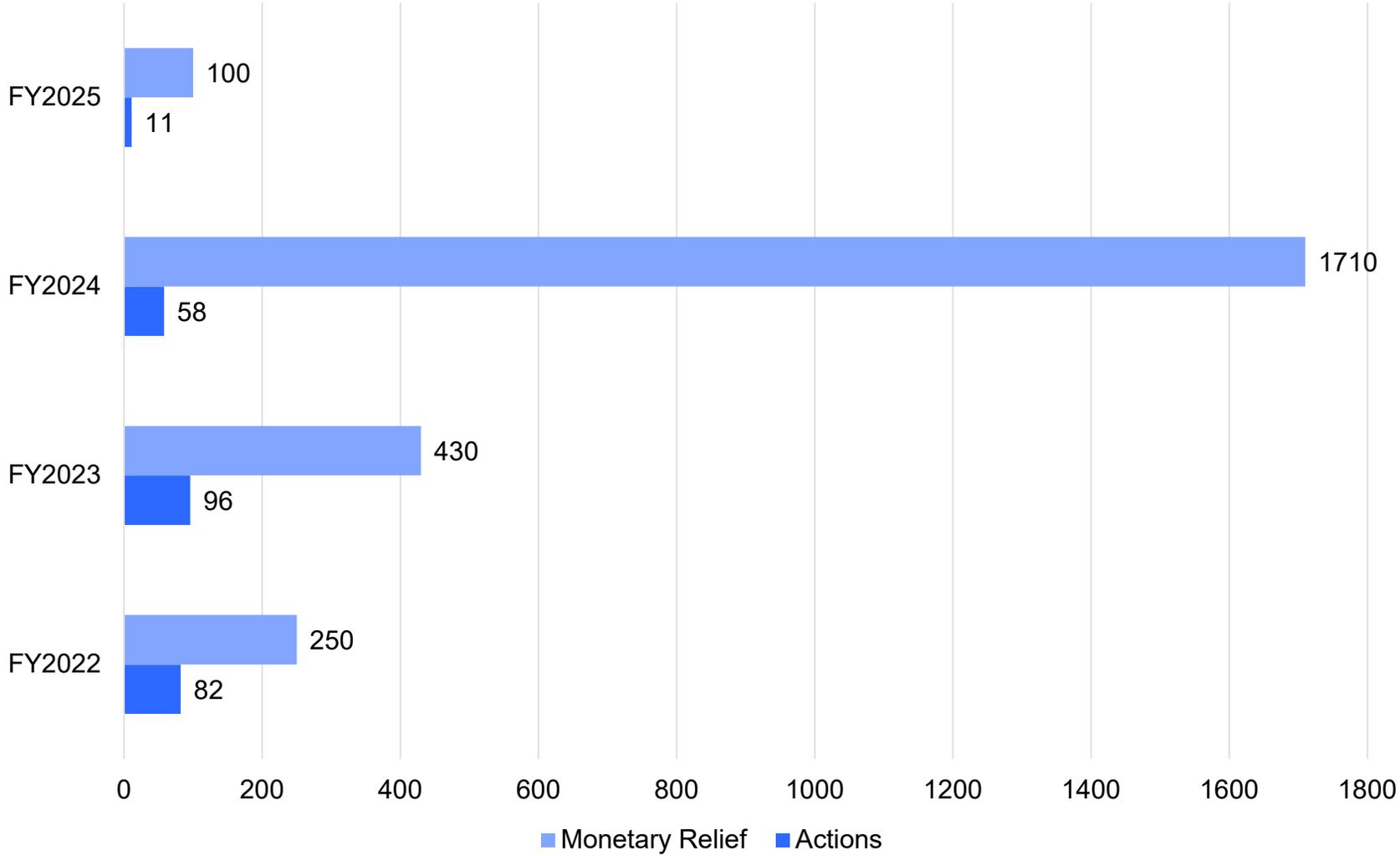
# Enforcement Statistics

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# Overview: Division of Enforcement

- The CFTC consists of the offices of the Chairman and Commissioners as well as the agency's 14 operating divisions and offices
- In early 2025, the CFTC reorganized its Division of Enforcement. The agency condensed its previous nine specialized task forces into two main units: Complex Fraud Task Force, and Retail Fraud and General Enforcement Task Force
  - In 2025, the CFTC reduced headcount in the Division of Enforcement
- In 2025, in an effort to end “regulation by enforcement” the CFTC:
  - Published an Enforcement Advisory outlining mitigation credit criteria for self-reporting, cooperation and remediation efforts, promoting voluntary compliance while upholding deterrence principles
  - Resolved multi-firm compliance issues
  - Strengthened criminal referral guidelines by adopting a policy statement clarifying factors for referrals to DOJ, ensuring consistency with executive guidance and upholding accountability standards
- The CFTC has said that it intends to be tough on those who break the rules, while also being fair and consistent

# Enforcement Actions Brought and Monetary Relief Obtained



Note: Monetary Relief represented on a 10,000,000 to 1 scale

# FY 2025 Overview

- **11 enforcement actions** filed and less than **\$1 billion in monetary relief** obtained
- **Enforcement "sprint"** resulted in **six settlements** with **10 firms** for a total of **\$8,324,000** in civil monetary penalties
- Five other enforcement cases, each relating to fraud or manipulative trading practices:
  - Three **retail fraud** complaints filed in federal court
  - One settlement alleging **wash sales**
  - One settlement alleging **spoofing**

# Enforcement Reforms

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# New Enforcement Priorities

Targeting fraud and  
manipulation

Reducing emphasis on  
task-by-task enforcement

Ending “regulation by  
enforcement”

# Amendments to CFTC Rules of Practice and Rules Relating to Investigations

## Rules of Practice

- Commission may accept settlement by meeting or by disposition of business by seriatim
- Recommendations for settlement must be accompanied by an objective memorandum

## Wells Process

- Written notice or confirmation of oral notice in writing
- Identify specific charges
- May refer to evidence
- At least 30 days to submit a response

# SEC Parallel

SEC Chairman Atkins discussed several ideas for updating the SEC's Wells process that parallel those implemented by the CFTC during his keynote address at the 25<sup>th</sup> Annual A.A. Sommer, Jr. Lecture on Corporate, Securities and Financial Law

## Sufficient Information

- “Providing the potential respondent or defendant with information about potential charges and the key evidence that forms the basis of those potential charges is critical to due process, fairness, and transparency.”
- “The staff must be forthcoming about material in the investigative file.”

## Productive Communication

- “An open, informed, and thoughtful dialogue between the Division [of Enforcement] and potential respondents or defendants produces both better recommendations to the [Securities and Exchange] Commission and better outcomes, particularly in complex matters.”
- “We want to confirm that we are not overlooking or misconstruing important evidence or misunderstanding legal limitations on our authority.”

## Process Mechanics

- “The staff must also be realistic about time periods for submissions, especially in long, complicated cases. Going forward, the staff will provide the other side with at least four weeks to make Wells submissions.”
- “Commissioners receive every Wells submission in settled and contested cases, and they ought to read these often very costly presentations.”

## **Division of Enforcement Advisory on Self- Reporting, Cooperation, and Remediation**

- The advisory is the Division’s “sole policy on self-reporting, cooperation, and remediation” and “sets forth the approach the Division will use to evaluate self-reporting, cooperation, and remediation to determine Mitigation Credit”
- “A Person can be eligible for Mitigation Credit for self-report, for cooperation, for both, or for neither, depending on that Person’s engagement with the Division”
- The advisory provides charts describing the tiers the Division will use in evaluating self-reporting and cooperation
- It also includes a matrix of presumptive mitigation credit awarded for self-reporting, cooperation, and remediation

# Self-Reporting Tiers

Tier	Cooperation
<b>Tier 1: No Self-Report</b>	<ul style="list-style-type: none"><li>• No timely self-report; or</li><li>• Self-report was information already known from other sources; or</li><li>• Self-report that was not reasonably related to the potential violation or not reasonably designed to notify the Commission of the potential violation</li></ul>
<b>Tier 2: Satisfactory Self-Report</b>	<ul style="list-style-type: none"><li>• Self-report to an Appropriate Division</li><li>• Notified the Commission of the potential violation</li><li>• Did not include all material information reasonably related to the potential violation that the reporting party knew at the time of the self-report</li></ul>
<b>Tier 3: Exemplary Self-Report</b>	<ul style="list-style-type: none"><li>• Self-report to an Appropriate Division</li><li>• Notified the Commission of the potential violation</li><li>• Included all material information reasonably related to the potential violation that the reporting party knew at the time of the self-report</li><li>• Included additional information that assisted the Division with conserving resources in the Division's investigation</li></ul>

# Cooperation Tiers

Tier	Cooperation
<b>Tier 1: No Cooperation</b>	<ul style="list-style-type: none"><li>• No substantial assistance beyond required legal obligations</li></ul>
<b>Tier 2: Satisfactory Cooperation</b>	<ul style="list-style-type: none"><li>• Provide substantial assistance</li><li>• Voluntary production of documents and information</li><li>• Arrange for voluntary witness interviews</li><li>• Basic presentations on legal and factual issues</li></ul>
<b>Tier 3: Excellent Cooperation</b>	<ul style="list-style-type: none"><li>• Meet the expectations for Satisfactory Cooperation</li><li>• Consistently provide substantial assistance</li><li>• Internal investigations or reviews</li><li>• Thorough analysis of potential violation, root cause, and corrective action for remediation</li><li>• Use of internal or external expert resources and consultants as appropriate</li></ul>
<b>Tier 4: Exemplary Cooperation</b>	<ul style="list-style-type: none"><li>• Meet the expectations for Excellent Cooperation</li><li>• Consistently provide material assistance</li><li>• Proactive engagement and use of significant resources</li><li>• Significant completion of remediation</li><li>• Use of accountability measures, as appropriate</li></ul>

# Mitigation Credit Matrix

	Tier 1: No Cooperation	Tier 2: Satisfactory Cooperation	Tier 3: Excellent Cooperation	Tier 4: Exemplary Cooperation
Tier 1: No Self-Report	0%	10%	20%	35%
Tier 2: Satisfactory Self-Report	10%	20%	30%	45%
Tier 3: Exemplary Self-Report	20%	30%	40%	55%

# 30-Day Compliance and Enforcement Sprint

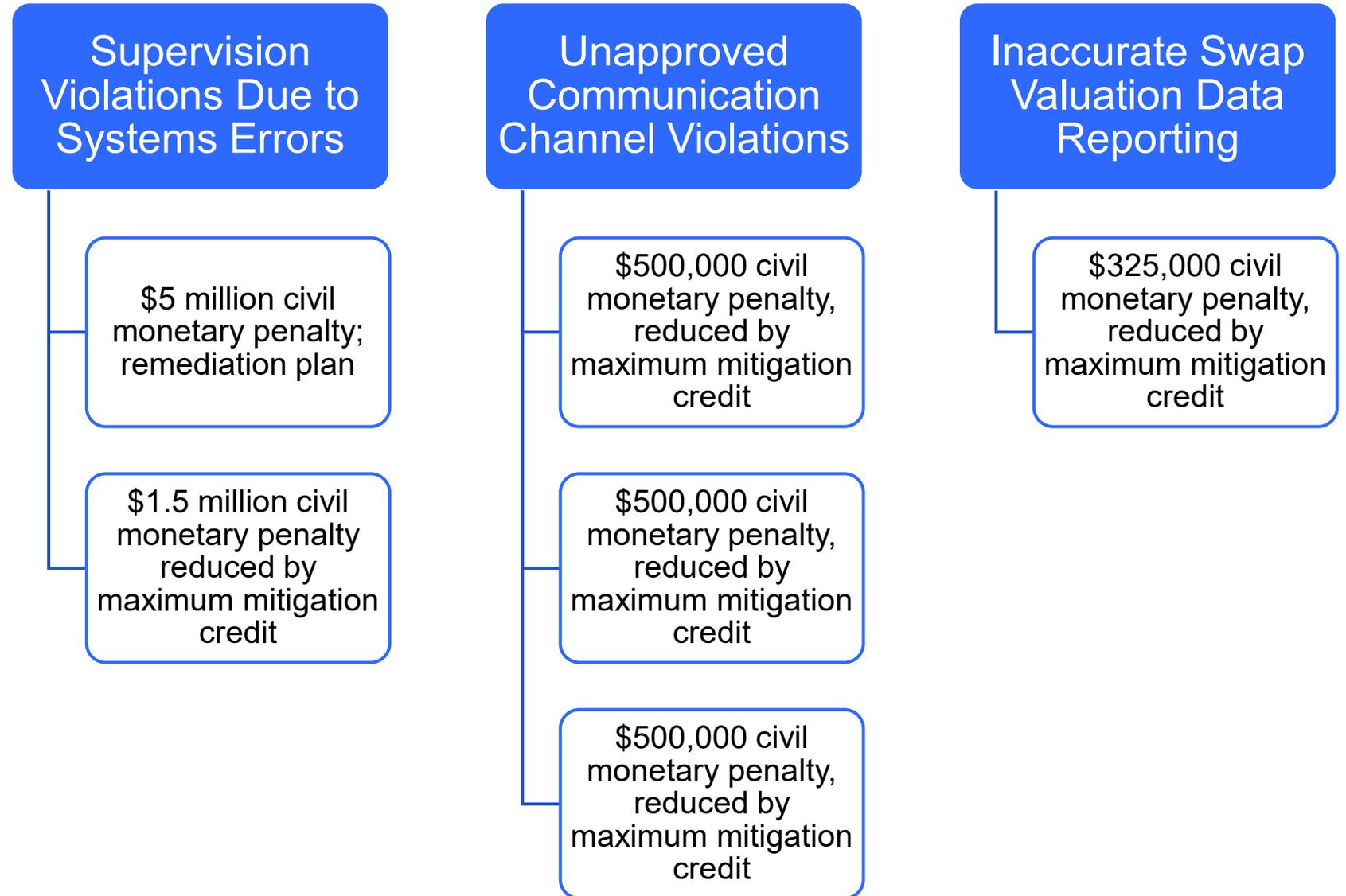
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# A Unique Opportunity

- Announced by Acting Chairman Pham on March 11, 2025
- Time-limited program available in March 2025
- Spurred by concerns regarding:
  - A ballooning enforcement docket
  - Languishing matters
  - Resources diverted from protecting against fraud, manipulation, and abuse
- Intended to provide eligible firms with an opportunity to fairly and efficiently resolve compliance-related investigations that did not involve fraud, customer harm, or market abuse



# Outcome: Orders and Penalties



# Other Significant Developments

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# Recent Enforcement Actions

The CFTC released its first Enforcement Update under Chairman Selig on January 16, 2026.

The CFTC announced:

- Two consent orders for **spoofing** in the precious metals futures market
- One consent order for **misappropriating confidential information** and **fictitious block trading** in natural gas futures
- One complaint filed for **fraud and registration violations**

Each of the consent orders was obtained on December 22, 2025, the same date on which Chairman Selig was sworn in, and the complaint was filed on December 19, 2025

# Deeper Dive: 2026 Enforcement Actions

- In **January 2026**, the U.S. District Court for the Northern District of Illinois entered two consent orders against two individuals for spoofing in the precious metals futures markets while employed at a major bank
  - The defendants, jointly and severally, must pay \$135,788 in disgorgement, representing their unlawful gains, and a \$200,000 civil monetary penalty
- In **February 2026**, the U.S. District Court for the Southern District of Texas entered a consent order against an individual for misappropriation of confidential information and directing business in exchange for illegal kickbacks in schemes to defraud his employer
  - The individual must pay \$7,709,509 in restitution, representing his employer's losses from the kickback scheme, and \$6,532,360 in disgorgement

# CFTC Policy Statement on Referrals for Potential Criminal Enforcement

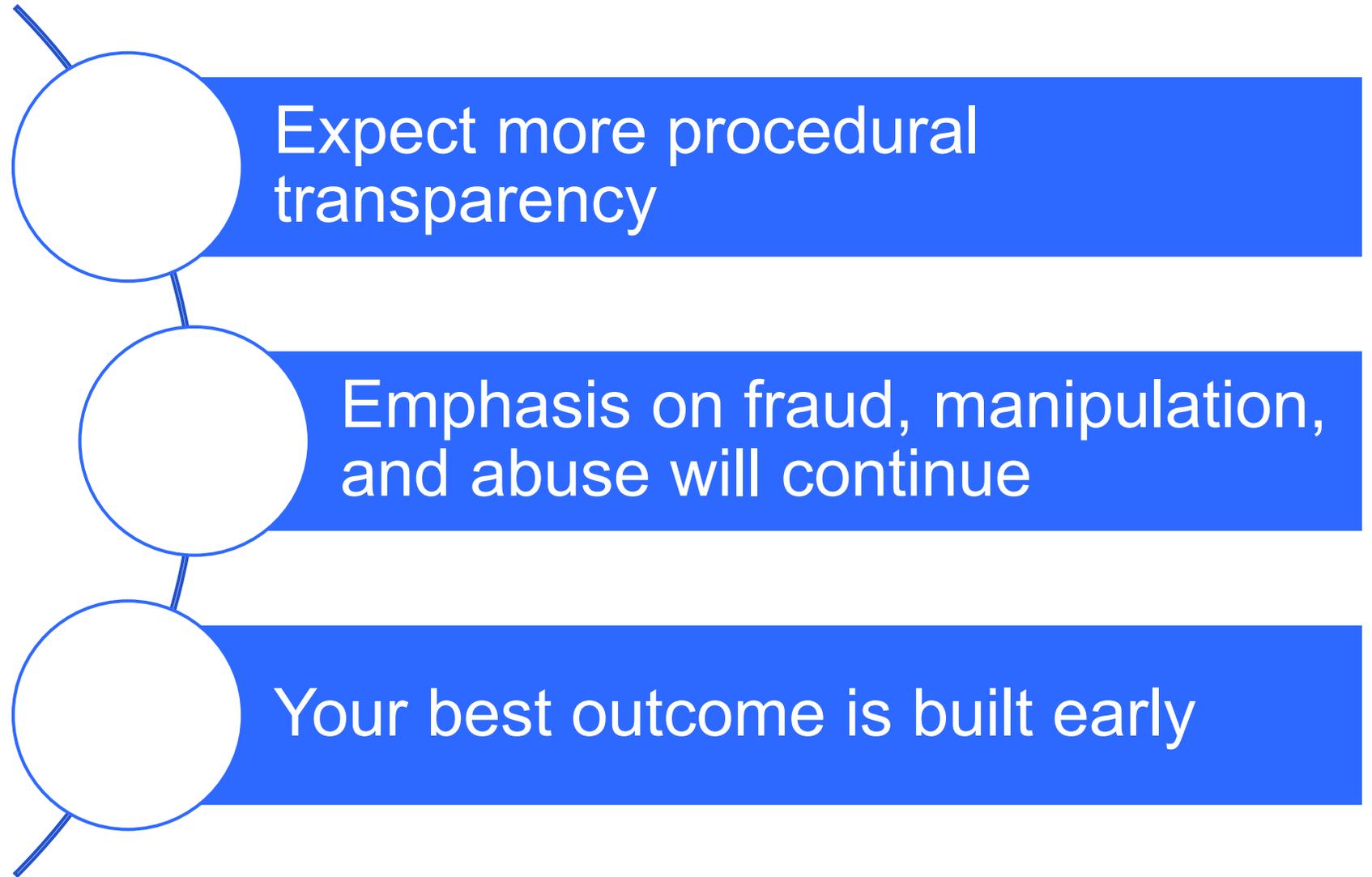
When deciding whether to refer alleged violations of criminal regulatory offenses to DOJ, Commission staff will consider, among other factors:

- The **harm or risk of harm**, pecuniary or otherwise, caused by the potential offense
- The **potential gain** to the putative defendant that could result from the offense
- Whether the putative defendant held **specialized knowledge, expertise, or was licensed** in an industry related to the rule or regulation at issue
- Evidence, if any is available, of the putative defendant's **general awareness of the unlawfulness of his conduct** as well as his knowledge or lack thereof of the regulation at issue
- Whether the putative defendant is a **recidivist** or has otherwise engaged in a pattern of misconduct
- Whether the involvement of the Department of Justice will provide **additional meaningful protection** to participants in the derivatives markets

# Conclusion

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# Key Takeaways



# Questions?





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