

THE REVIEW OF
**SECURITIES & COMMODITIES
REGULATION**
AN ANALYSIS OF CURRENT LAWS AND REGULATIONS
AFFECTING THE SECURITIES AND FUTURES INDUSTRIES

Vol. 52 No. 21 December 4, 2019

THE CFTC'S ENFORCEMENT MANUAL: KEY CONTENT AND USE FOR PRACTITIONERS IN CFTC INVESTIGATIONS

In this article, the authors summarize and comment on some of the particularly relevant content of the CFTC's new enforcement manual. They find it to be an informative compilation of basic enforcement policies and procedures for both compliance personnel and defense attorneys.

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The Division of Enforcement (“DOE” or “Division”) of the Commodity Futures Trading Commission recently published its first Enforcement Manual.¹ The Manual provides guidance to DOE’s staff with respect to detecting, investigating, and prosecuting violations of the Commodity Exchange Act (“CEA”) and CFTC regulations. It also includes an overview of DOE and information about litigating enforcement matters, and is a helpful compilation of basic enforcement policies and procedures for both compliance personnel and defense attorneys. This article summarizes some of the particularly relevant content of the Manual for CFTC practitioners.

The publication of the Manual is part of a broader effort by the DOE to increase the transparency of and consistency across enforcement matters. As part of the release of the Manual, DOE Director James McDonald explained that “[o]ur Manual aims to increase the level of clarity and transparency in our work. Clarity and transparency in our policies should promote fairness, increase predictability, and enhance respect for the rule of law. We expect the publication of our Manual to advance these goals going forward.”²

¹ The Manual is available at <https://www.cftc.gov/LawRegulation/Enforcement/EnforcementManual.pdf>.

² CFTC, *CFTC's Division of Enforcement Issues First Public Enforcement Manual*, Press Release No. 7925-19, available at <https://www.cftc.gov/PressRoom/PressReleases/7925-19> (May 8, 2019).

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