

CFTC's Doge-Inspired Drive to Enforcement May Fall Short

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Partner [Peter Malyshev](#) spoke with *Risk.net* about the Commodity Futures Trading Commission's attempt to encourage market participants to come forward with possible regulatory violations in an article, "CFTC's Doge-inspired drive to enforcement may fall short," published on April 7.

On February 25, the CFTC published an advisory laying out the amount of credit it will give to firms for co-operating with it over possible infringements of its laws. Many experts expressed skepticism about how impactful this change would be.

"I frankly think that there will be no change at all," said Peter.

The advisory sets out criteria to decide the discount on penalties it will give to firms for self-reporting any violations, ranging from 0-55%.

According to Peter, without knowing the size of the possible penalty upfront, it still leaves uncertainty as to the precise value of self-reporting.

"If I tell you [that] you can get 50% off of X if something happens, but I don't tell you what X is, this whole formula becomes completely meaningless," he said, pointing out that the notification of the amount of the penalty happens at the very end of the process.

Furthermore, the standard that needs to be met for each category isn't clear.

"You self-report to the CFTC if you think there was a violation," said Peter. "So, you spend quite a bit of time doing an investigation internally and then they might ask you for every conceivable record that you may have.... Asking for every record is unreasonable, but if you push back, does it mean you're not fully co-operating?"

One potential positive of the advisory is that firm's can self-report to the CFTC's operating divisions rather than the enforcement department.

"The [CFTC] lawyers talk to enforcement, but they will explain what was going on, [and] be an advocate," he says.

Peter added that if the CFTC wants to improve firms' adherence to rules – thereby lowering enforcement costs – it needs to reconsider them.

"If you have so many enforcement cases against the largest financial institutions in the world, who spend millions of dollars on their compliance and these gold-plated financial institutions cannot get things right, it means there's probably something wrong with the rule itself," he said. "They're not trying to cheat the CFTC or the markets, they really are trying to comply."

Read the full article [here](#).