

# SEC's Enforcement Director Comments on CCO Liability, Self-Reporting and Cooperation

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In remarks to the New York City Bar Association Compliance Institute on October 24, 2023, the Director of the SEC's Division of Enforcement, Gurbir S. Grewal, commented on certain aspects of compliance enforcement, including cooperation credit and enforcement actions against compliance personnel, among other things.

## Cooperation Credit

Emphasizing proactive compliance, including "[t]hrough leadership, training, constant oversight and the right tone at the top," Mr. Grewal stated that if, despite such efforts, a securities law violation is detected, "the best thing to do would be to self-report and cooperate." With respect to cooperation credit, Mr. Grewal stated that the staff has "aggressively rewarded meaningful cooperation, most notably by recommending that the Commission impose substantially reduced penalties—or even no penalties at all." **He noted that circumstances or actions that have resulted in reduced or no penalties have included:**

- preemptively remediating and ceasing the unlawful behavior;
- proactively providing compensation to victims;
- providing detailed financial analyses, explanations and summaries of factual issues to the staff;
- proactively identifying key documents and witnesses that the staff has not yet identified; and
- facilitating interviews of former employees.

## Enforcement Actions against Compliance Personnel

Mr. Grewal asserted that the Enforcement Division "do[es] not second-guess good faith judgments of compliance personnel made after reasonable inquiry and analysis," describing enforcement actions against compliance personnel as "rare." **Still, Mr. Grewal identified three situations in which the**

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**SEC typically brings enforcement actions against compliance personnel:**

- when compliance personnel affirmatively participate in misconduct unrelated to the compliance function;
- when they mislead regulators; and
- when there is a wholesale failure by them to carry out their compliance responsibilities.

In circumstances of apparent “wholesale failures,” Director Grewal noted that “there was no education, no engagement and no execution.” He reiterated, however, that cases against CCOs are rare, alluding to a “handful” out of the more than 1,000 standalone enforcement proceedings during his tenure, and noted that the staff has “no interest in pursuing enforcement actions taken against compliance personnel who undertake their responsibilities in good faith and based on reasonable inquiry and analysis.”

A copy of Director Grewal’s remarks is available [here](#).

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