United States General Accounting Office

GAO

Report to Congressional Requesters

August 1998

CFTC ENFORCEMENT

Actions Taken to Strengthen the Division of Enforcement

GAO/GGD-98-193

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-278746

August 28, 1998

The Honorable Robert F. Smith
Chairman
Committee on Agriculture
House of Representatives

The Honorable Thomas W. Ewing
Chairman
Subcommittee on Risk Management
and Specialty Crops
Committee on Agriculture
House of Representatives

An internal review of the Commodity Futures Trading Commission's (CFTC) Division of Enforcement, completed in March 1995, found weaknesses in the division's overall management. In response, the CFTC chairperson began several initiatives to strengthen the division but resigned in January 1996 before completing them.[1] In August 1996, the current chairperson took office. Based on your continued interest in ensuring the effectiveness of the division, you initially asked us to determine what changes CFTC made in response to the internal review and whether such changes had their intended effect. Because CFTC did not have data available that could be used to assess whether the changes had their intended effect, we agreed with your offices to (1) provide information on the changes made to the division, including the views of enforcement staff on areas in which such changes were made; (2) identify further opportunities for improvement, if any, in these areas; and (3) provide other available information that might indicate CFTC's commitment to its enforcement program.

Results in Brief

Following the completion of CFTC's internal review, the Division of Enforcement made numerous organizational, operational, and other changes related to the review findings. These changes included reorganizing headquarters and two of its three regional offices, providing additional training, expanding written guidance on investigations and litigation, revising the review process for recommendations made to the Commission, increasing communication between management and staff, emphasizing the importance of equal employment opportunity (EEO), and modernizing recordkeeping systems. Our survey of a judgmentally

[1]See our related testimony, CFTC/SEC Enforcement Program: Status and Potential Impact of a Merger (GAO/T-GGD-96-36, Oct. 25, 1995).

selected sample of about half of the division's headquarters and regional office professional staff showed that, in areas where changes were made, the surveyed staff viewed the division's current organization and operations more positively than negatively. However, the views of headquarters staff were consistently more positive—notably more so in some areas—than those of regional office staff.

While we could not assess whether the division's changes had their intended effect, further opportunities exist to strengthen the division in two areas where changes were made. First, although the division has provided additional training to staff, it does not have a mechanism to ensure that staff training needs are systematically assessed and addressed. That is, the division does not have a formal training plan for identifying the areas in which training is needed, providing such training, and tracking the training staff receive. Second, the division has reviewed and updated its procedures manual, but the manual does not address all of the major policies and procedures related to the division's investigation and litigation processes.

In addition to the division's changes, available information indicates that CFTC is committed to its enforcement program. For example, the current chairperson has made strengthening the division a priority—requesting an increase in the agency's fiscal year 1999 budget to support additional enforcement staff. Also, industry officials we contacted view the agency as taking a more aggressive stance against violators of the Commodity Exchange Act (CEA).[2] Finally, a substantial majority of the surveyed enforcement staff viewed the division as operating effectively and efficiently as well as producing quality work.

Background

CFTC is an independent agency with a mandate to regulate contracts for future delivery, called futures,[3] and commodity options.[4] The agency is to have five commissioners who are appointed by the President and confirmed by the Senate to serve staggered 5-year terms. The Commission

[2]7 U.S.C. §§ 1-25.

[3]Futures are contracts to purchase or sell a commodity for delivery in the future: (1) at a price that is determined at the contract's initiation, (2) which obligates each party to fulfill the contract at the specified price, (3) which is used to assume or shift price risk, and (4) which may be satisfied by delivery or offset.

[4]Commodity options are unilateral contracts that give the buyer the right to buy or sell a specified quantity of a commodity at a specific price within a specified period, regardless of the market price of that commodity.

develops and implements agency policies and direction. One of the commissioners is designated by the President to serve as chairperson.

The Division of Enforcement investigates and prosecutes alleged violations of the CEA and CFTC regulations. Violations may involve, among other things, infractions of the CEA and of CFTC regulations related to the trading of futures or options on U.S. futures exchanges, marketing of commodity contracts, rendering of commodity trading advice, as well as the selling of illegal instruments. The division, at the direction of the Commission, litigates complaints before the agency's administrative law judges or in U.S. district court. Alleged criminal violations of the CEA or violations of other federal laws that involve futures trading may be referred to the Justice Department for prosecution. The division also provides expert help and technical assistance with case development and trials to U.S. Attorneys Offices, other federal and state regulators, and international authorities.

The Division of Enforcement is the largest of CFTC's five major operating units.[5] The division has staff in the agency's headquarters office, located in Washington, D.C., and in three regional offices, located in Chicago, IL; Los Angeles, CA; and New York, NY. In fiscal year 1997, the division had 159 authorized staff years, accounting for about 27 percent of the agency's staff, and a $16 million budget, accounting for about 29 percent of the agency's total budget. Of the division's authorized staff years, 72 were in headquarters, 39 were in the Chicago regional office, 21 were in the Los Angeles regional office, and 27 were in the New York regional office.

Scope and Methodology

To accomplish our three objectives, we discussed the Division of Enforcement's organization and operations with officials from its headquarters as well as Chicago and New York regional offices. We also reviewed, among other things, the division's policies and procedures as well as training manuals and the President's Council on Integrity and Efficiency's (PCIE)[6] quality standards for investigations. In addition, we used a structured questionnaire to survey about half of the division's professional staff in headquarters and the Chicago, Los Angeles, and New

[5]The other major operating units are the Division of Economic Analysis, Division of Trading and Markets, Office of the General Counsel, and Office of the Executive Director.

[6]PCIE is an interagency committee established by Executive Order No. 12805, 57 Fed. Reg. 20,627 (1992). PCIE's members include the Deputy Director of the Office of Management and Budget, Associate Deputy Director for Investigations of the Federal Bureau of Investigations, and all civilian presidentially appointed inspectors general. PCIE's functions included identifying, reviewing, and discussing areas vulnerable to fraud, waste, and abuse in federal programs and operations.

York regional offices to obtain their views on the division's organization and operations in areas where changes were made. We judgmentally selected a cross-section of staff to include varied locations, positions, grades, and employment dates. Our survey results reflect only the views of the enforcement staff we surveyed who said they had a basis to judge. Because CFTC had not done a similar survey as part of its internal review, we lacked a baseline against which to compare our survey results to determine whether staff views changed from the period when the internal review was conducted. (See app. III for a copy of the survey and results.) Finally, we interviewed futures exchange and other industry officials to discuss their views on the effectiveness of the division. (See app. I for a more detailed description of our objectives, scope, and methodology.)

We did not verify the accuracy of the documentation and other information provided to us. We did our work between November 1997 and July 1998 in accordance with generally accepted government auditing standards. We obtained written comments on a draft of this report from CFTC. These comments are reprinted in appendix II. CFTC also provided us with technical comments on the draft report, which were incorporated as appropriate.

Reorganization of the Division of Enforcement

Following the completion of CFTC's internal review in March 1995, the Division of Enforcement made organizational changes in headquarters and two of its three regional offices. Of the staff surveyed, most were satisfied with the division's current organizational structure and indicated that it provided a clear chain of command.

Reorganization of Headquarters

CFTC's internal review found that the Division of Enforcement did not operate as a cohesive unit in which information and resources were shared and used to achieve a common goal. Rather, each headquarters unit and, to a lesser extent, each regional office specialized in investigating certain types of cases.[7] The internal review concluded that this specialization limited flexibility and made it difficult to staff investigations and cases efficiently. The internal review also found that the division lacked clear lines of authority, causing confusion among attorneys and investigators about their roles and responsibilities.

[7]Before August 1995, the division's operating units were organized into three sections. The sections were (1) Western Operations, comprised of the Central Regional Office in Chicago and the Western Regional Office in Los Angeles; (2) Eastern Operations, comprised of the Eastern Regional Office in New York and the Southern Regional Office in headquarters; and (3) Manipulation and Special Operations in headquarters.

Following the completion of the internal review, CFTC started to reorganize the division in headquarters. CFTC appointed a new division director in August 1995 and made other organizational changes that were completed in fiscal year 1996. First, in October 1995, the division reorganized headquarters staff into four general investigation/litigation teams, eliminating two of its three specialized headquarters units[8] and the Southern Regional Office. It also moved the other specialized headquarters unit, International Operations, to the Office of Chief Counsel. In addition, the division created associate director positions to head each of the four general teams. Each team is to have two senior attorneys that report to an associate director and are responsible for supervising investigations and enforcement cases assigned to the team.

Second, as part of its reorganization of headquarters, the division eliminated two of the three deputy directors. Previously, the division's headquarters units and regional offices reported to one of three deputy directors. Now they report to a single deputy director and, ultimately, to the director. The deputy director is now responsible for, among other things, reviewing referrals about potential investigations and allocating them to headquarters teams and regional offices based, in part, on their workloads.

Third, the division made other changes in headquarters. It created a counselor to the director position to assist with the review of division recommendations to the Commission. It designated the Office of Chief Counsel to handle all appeals to the Commission—a task previously handled by the team that was responsible for the initial litigation. Lastly, the division assigned the management analysis officer responsibility for supervising all administrative staff.

As a result of the reorganization, the division has an almost entirely new management team in headquarters. Besides its new director, the division has a new deputy director, chief counsel, counselor to the director, and two associate directors.

Reorganization of Regional Offices

In March 1995, CFTC announced a plan to restructure the regional offices by creating regional director positions to head the Chicago and New York offices. Each regional director was to coordinate all of the office's

[8]The Division of Enforcement's Manipulation and Special Operations section consisted of three specialized units: the Manipulation and Trade Practice Unit, the State/Federal Liaison Unit, and International Operations. The Manipulation and Trade Practice and State/Federal Liaison Units were eliminated.

substantive functions and report directly to the chairperson. In June 1995, the chairperson reassigned the headquarters division director as the New York regional director.[9] According to CFTC officials, the chairperson took no other steps to implement the plan before resigning, and her successor did not implement it. The officials said that the current chairperson concluded that implementing the plan would be an inefficient use of resources and would impair the Commission's ability to function; in December 1996, the Commission eliminated the regional director positions. The division, nonetheless, made other organizational changes in the regional offices.

The division reorganized staff in two of its three regional offices and made key staff changes in all three regional offices. In January 1996, the division reorganized enforcement staff in the New York regional office into teams. Under this structure, all attorneys and investigators working on a particular matter report to a team leader, who reports, in turn, to the regional counsel. Previously, enforcement staff in the New York regional office were not organized in teams. In late 1997, the Chicago regional office similarly integrated investigators into investigation/litigation teams. Under this new structure, all attorneys and investigators working on a particular matter report to a single team leader. Before this change, investigators worked on teams but reported to a chief investigator. According to CFTC officials, staff in the Los Angeles regional office were not organized into teams because of the relatively small number of enforcement staff assigned to the office. Finally, in each of its three regional offices, the division replaced the regional counsel, who supervises all regional enforcement staff.

Enforcement Staff Views on the Current Organizational Structure

We surveyed staff on how satisfied or dissatisfied they were with the Division of Enforcement's current organizational structure. Of the 65 staff surveyed, about 50 percent responded that they were generally or very satisfied with the division's current organizational structure, while 30 percent responded that they were generally or very dissatisfied.[10] However, the 25 headquarters staff responses were substantially more positive than those of the 40 regional office staff. Seventy-six percent of headquarters staff responded that they were generally or very satisfied with the division's current organizational structure, while 12 percent responded that they were generally or very dissatisfied. In contrast,

[9]The New York regional director resigned in September 1996 and was not replaced.

[10]For staff satisfaction questions, the response options were (1) very satisfied, (2) generally satisfied, (3) neither satisfied nor dissatisfied, (4) generally dissatisfied, and (5) very dissatisfied.

35 percent of the regional office staff responded that they were generally or very satisfied, while 41 percent responded that they were generally or very dissatisfied.

We also asked staff to assess the extent to which the division's current organizational structure provides a clear chain of command. Of the staff surveyed, 79 percent responded that the current structure provides a clear chain of command from a moderate to a very great extent, while 6 percent responded that the current structure provides a clear chain of command to little or no extent.[11] Again, proportionally more headquarters staff reported positively than regional office staff. Ninety-two percent of the headquarters staff, compared with 73 percent of the regional office staff, responded that the division's current organizational structure provides a clear chain of command from a moderate to a very great extent.

Expansion of Training Opportunities

Following the internal review, the Division of Enforcement developed an annual in-house training conference to address training weaknesses. Of the staff surveyed, most indicated that their training needs were being met by all the training they receive, including the annual training conference. However, the division's training program did not have a formal training plan to help ensure that staff possess the critical skills needed to effectively investigate and litigate enforcement matters.

Development of an Annual In-House Training Conference

The internal review found that the Division of Enforcement had no formal program for training its staff. Rather, the division relied almost exclusively on external training that offered little with respect to investigating CFTC-specific cases and was of limited use in training entry-level attorneys. According to the internal review, the lack of adequate training hampered the enforcement staff's ability to investigate and litigate the wide variety of cases before the Commission.

To begin addressing training weaknesses, the division developed a 2-1/2 day in-house training conference that was to be provided annually to all enforcement attorneys and investigators. The first conference was held in September 1995. The division has continued holding the annual in-house training conference, with the most recent one being held in September 1997. According to CFTC officials, this conference focused on strengthening and reinforcing the skills used to investigate and litigate

[11]The response options were (1) to a very great extent, (2) to a great extent, (3) to a moderate extent, (4) to some extent, and (5) to little or no extent.

cases. They said that extensive written materials were distributed at the conference, such as materials on legal developments in Commission law and significant cases filed by the division. In addition, the conference included panel discussions on emerging themes in Commission law and handling of bankruptcy issues as well as workshops on specific investigation and litigation skills, such as interviewing witnesses and examining experts.

According to CFTC officials, the division also relies on other internally and externally provided training to meet staff training needs. The officials told us, for example, that senior staff in headquarters conducted a series of workshops in 1996 for headquarters and regional office staff that focused on practice-related topics, such as conducting investigations, drafting subpoenas, and taking testimony. They also said that regional offices and headquarters teams are encouraged to conduct their own individually tailored training. In terms of external training, the officials said that some staff have attended industry seminars and annual conferences as well as courses provided by the National Institute for Trial Advocacy. Finally, the officials told us that all staff had access to various computer software training.

Staff Views on the Training Program

We asked staff to assess the extent to which the division's most recent annual in-house training conference met their training needs. Of the staff surveyed, 62 percent responded that the most recent in-house training conference met their training needs from a moderate to a very great extent, while 10 percent responded that it met their needs to little or no extent. Although views differed between headquarters and regional office staff, the difference was less pronounced than for other questions. Sixty-nine percent of headquarters staff responded that the most recent in-house training conference met their training needs from a moderate to a very great extent, while 57 percent of the regional office staff responded in this manner.

We also asked staff to assess the extent their training needs were being met by the combination of all the training they receive. Of the staff surveyed, 64 percent responded that their training needs were being met from a moderate to a very great extent, while 9 percent responded their needs were being met to little or no extent. Headquarters staff responses, however, were proportionally more positive than those of regional office staff. Seventy-nine percent of headquarters staff responded that their training needs were being met from a moderate to a very great extent,

while 55 percent of regional staff responded similarly. Conversely, none of the headquarters staff responded that their training needs were being met to little or no extent, while 15 percent of the regional office staff responded in this manner.

The Division Lacks a Formal Training Plan

Although the Division of Enforcement has taken action to address weaknesses in its training program, the division does not have a mechanism for ensuring that staff training needs are systematically assessed and met. According to the quality standards for investigations issued by PCIE,[12] investigative agencies should establish a training program to provide staff with proper preparation, training, and guidance. To facilitate this effort, the guidance noted that the program should have a training plan and indicated that the plan should (1) identify the areas in which staff—based on their position, grade, or other relevant factors—should receive training, (2) provide staff with formal or on-the-job training in the identified areas at the appropriate time, and (3) track and assess whether staff are receiving such training. Although this quality standard specifically applies to investigators, we believe attorneys could also benefit from such a training plan, especially since attorneys are required to conduct investigations.

CFTC officials told us that the division does not have a formal training plan for identifying areas in which staff need training, providing staff with this training, and tracking the training staff receive. According to CFTC officials, supervisors are primarily responsible for tracking and assessing the training needs of assigned staff. The officials said that staff are reviewed twice a year by their supervisors, which provides both parties with an opportunity to discuss whether additional training is needed. However, without a divisionwide training plan, supervisors may lack a clear and consistent basis for assessing staff training needs and an efficient way of providing them with needed training. Additionally, without such a training plan, the division may not be able to ensure that staff acquire the critical skills they need to effectively conduct investigations and litigation. Furthermore, in response to our survey, several staff commented that the division could use more training on investigative techniques—in part due to the decline in the number of investigators and the increasing need for attorneys to do more investigative work.

[12]The quality standards for investigations are guidelines applicable to investigations conducted by criminal investigators working for the Offices of Inspector General affiliated with PCIE. They are adaptable to the investigative responsibilities of other organizations within the federal government.

Development of Additional Written Guidance

Following the completion of the internal review, the Division of Enforcement reviewed and expanded its formal procedures manual and other written guidance. Of the staff surveyed, more were satisfied than dissatisfied with the written guidance available on investigations and enforcement actions. Although the division recently updated its procedures manual, the manual does not cover all of the division's major policies and procedures for investigations and litigation.

Development of a Formal Procedures Manual

The internal review found that the Division of Enforcement did not have a formal handbook containing policies or procedures that covered such topics as basic techniques for conducting investigations and taking testimony. In response to the finding, the division has been reviewing and expanding its enforcement procedures manual—intending to provide staff with additional formal guidance, such as guidance on maintaining case files and complying with privacy act requirements. The division most recently updated its procedures manual in March 1998.

The division has also developed a guide to taking testimony and distributed it to staff at the 1997 in-house training conference. The guide is designed to provide enforcement staff with information on taking testimony—serving as a quick reference tool when problems or questions arise during testimony. Additionally, the division recently updated its two-volume reference manual, which contains an overview of the CEA and division activities as well as case summaries.

Staff Views on Written Guidance

We surveyed staff on how satisfied or dissatisfied they were with the written guidance currently available to assist them in conducting investigations. Of the staff surveyed, 53 percent were generally or very satisfied with the written guidance available to assist them in conducting investigations, while 27 percent were generally or very dissatisfied with the guidance. However, headquarters staff were proportionally more positive than regional office staff. Seventy-nine percent of headquarters staff were generally or very satisfied with the written guidance for conducting investigations, while 8 percent were generally or very dissatisfied. In contrast, 38 percent of the regional office staff were generally or very satisfied, while an equal percentage were generally or very dissatisfied.

We also surveyed staff on how satisfied or dissatisfied they were with the written guidance currently available to assist them in conducting

enforcement actions. Of the staff surveyed, 40 percent were generally or very satisfied with the written guidance, while 22 percent were generally or very dissatisfied. However, as with the above question, headquarters staff were proportionally more positive than regional office staff. Fifty-four percent of headquarters staff were generally or very satisfied with the written guidance, while 9 percent were generally or very dissatisfied. In contrast, 31 percent of regional office staff were generally or very satisfied, while 28 percent were generally or very dissatisfied.

The Division's Procedures Manual Lacks Key Procedures

Although the Division of Enforcement recently updated its procedures manual, the manual does not cover all of the division's major policies and procedures for investigations and litigation. For example, the manual does not include policies and procedures for handling and tracking referrals from other than public customers, such as referrals from futures exchanges, other CFTC divisions, and other federal and state authorities; planning investigations, including developing an investigative plan and requesting orders of investigation;[13] and making action recommendations to the Commission to initiate enforcement action.

According to CFTC officials, the division's procedures manual is a compendium of important procedures relating to investigations and litigation. They said the manual reflects the evolution of the division—new procedures are added and existing ones are revised or rescinded, as needed. CFTC officials told us that they also orally communicate changes in policy and procedures to staff and that other written guidance on investigations and litigation is available to assist staff. Such written guidance includes the two-volume reference manual and guide to taking testimony, discussed above, as well as annotations on the Commission's rules of practice and copies of recently approved forms and memoranda. In addition, the officials told us that certain procedures, such as requesting orders of investigation, are basic to the investigation or litigation processes. They said that, as a result, such procedures are quickly learned by staff without the need to include them in the procedures manual.

A complete policies and procedures manual is a key tool for establishing the standards that management expects staff to follow in performing investigations and litigation. Such a manual provides a framework for ensuring that staff's work meets agency standards and a means by which to add or revise policies and procedures and communicate them to staff.

[13]Orders of investigation authorize staff to issue subpoenas, administer oaths, take evidence, and require the production of records. In many investigations, a complete record cannot be developed without exercising this authority.

Without a complete policies and procedures manual, the division may not have an effective tool for ensuring that staff have a clear and consistent understanding of the division's standards or an efficient means for communicating changes in policies and procedures to staff.

Revision of the Review Process for Investigations and Litigation

Following the completion of the internal review, the Division of Enforcement made policy, procedural, and other changes to its process for reviewing recommendations made to the Commission. Of the staff surveyed, more were satisfied than dissatisfied with the timeliness of the review process.

Policy, Procedural, and Other Changes in the Review Process

The internal review found that the progress of investigations and litigation was substantially delayed by CFTC's review process for action recommendations (requests for the Commission to issue orders of investigation, initiate subpoena enforcement actions, and initiate civil or administrative actions). The internal review found that the process involved sequential review and revision of key enforcement documents at various agency levels before the Commission decided on enforcement matters.

The Division of Enforcement has made policy and procedural changes to the review process for obtaining orders of investigations. According to CFTC officials, the division has adopted the practice of seeking orders of investigation as soon as investigators believe that such orders are necessary to advance investigations. The officials said that the division, with the Commission's concurrence, has informed staff about the form and content of these requests so that the memoranda for seeking orders now rarely exceed 10 pages. According to the officials, the chairperson, at the division's recommendation, expedited the review process as it involved other operating divisions in July 1997. Memoranda seeking orders of investigation are to be provided to other operating divisions for a period of 2 business days; absent objection within this time, the memoranda are forwarded to the Commission. Previously, such memoranda were circulated to other divisions for review and sign-off for at least a week before being submitted to the Commission. Finally, the number of other operating divisions to which the memoranda are circulated was reduced by eliminating the Office of the Executive Director from the review process.

According to CFTC officials, the division also has made a similar procedural change to the review process for other action recommendations, such as those to initiate civil or administrative actions and to accept offers of settlement. These action recommendations are generally subject to the same review process as orders of investigation. Like orders of investigation, they are no longer circulated to the Office of the Executive Director for review. Unlike orders of investigation, these recommendations are to be circulated to other operating divisions for a 5-business-day review and comment period before being forwarded to the Commission.

Lastly, as part of the review process within the division, action recommendations are now reviewed by the deputy director and/or counselor to the director after they are approved by an associate director or regional counsel. As discussed above, the division eliminated two of three deputy director positions and added the position of counselor to the director to assist in the review.

Staff Views on the Timeliness of the Review Process

We surveyed staff on how satisfied or dissatisfied they were with the timeliness of the current review process. Of the staff surveyed, 49 percent responded that they were generally or very satisfied with the timeliness of the review process, while 35 percent responded they were generally or very dissatisfied. However, staff views differed substantially between headquarters and regional office staff. Seventy-four percent of the headquarters staff were generally or very satisfied with the timeliness of the review process, while 13 percent were generally or very dissatisfied. In contrast, 33 percent of the regional office staff were generally or very satisfied, while 49 percent were generally or very dissatisfied. In response to our survey, several staff commented that the review process had too many levels of review.

Increased Communication Between Management and Staff

CFTC's internal review found that communication within the Division of Enforcement was inadequate in both headquarters and the regions. It established that the division did not hold divisionwide staff meetings or provide a forum to discuss ongoing cases, current legal developments, or policy shifts.

According to CFTC officials, the director and deputy director now meet regularly with senior headquarters and regional office staff. The officials said that these meetings provide an opportunity to recommend and

discuss changes in policy and clarify any uncertainty regarding existing policy. The senior staff, in turn, pass on the information obtained to staff through, among other means, routine staff meetings.

In addition, CFTC officials told us that the division communicates important information to staff in several ways—none of which is new, but all of which are used more extensively than in the past. For matters of immediate importance or urgency, they said that the division uses electronic mail. For important but less urgent matters, they said the division communicates with staff through general distribution of physical documents. Among the materials regularly circulated are all substantive opinions of the Commission and its administrative law judges, important orders or opinions stemming from Commission injunctive actions, and judicial opinions in areas of law that affect the division's work.

Staff Views on Communication Between Management and Staff

We asked staff to assess the extent to which the division's management currently communicates policy-related information to them in a timely manner. Of the staff surveyed, 70 percent responded that management communicates such information in a timely manner from a moderate to a very great extent, while 8 percent responded that management communicates such information in a timely manner to little or no extent. However, headquarters staff were more positive than regional staff. Eighty-four percent of headquarters staff responded that management communicates information to them in a timely manner from a moderate to a very great extent, while 60 percent of regional office staff responded in the same manner.

Emphasizing the Importance of EEO

CFTC's internal review concluded that Division of Enforcement needed to address EEO. The internal review noted that the division should emphasize its commitment to a nonhostile work environment by ensuring that staff understand their rights under the law and their responsibilities toward their colleagues.

In May 1997, the chairperson issued an agencywide policy statement on EEO. In addition, the chairperson has emphasized CFTC's commitment to providing equal employment opportunities to all persons and has challenged the futures industry to do the same. According to CFTC officials, information regarding employees' EEO rights and obligations is generally provided to all divisions through the Office of Human Resources. Through this channel, all newly hired division staff are given materials describing

the Commission's employee diversity policy, and all CFTC employees are provided the names of EEO counselors. In addition, CFTC officials said that the agency recently consolidated all of the different appraisal systems used by each division into one system. This system covers all employees and has an EEO standard that is applicable to supervisors—GS-15s and above. According to the officials, the EEO standard being used is not new, but is similar to the one the division had been using since the early 1980s.

Staff Views on EEO

We surveyed staff on how satisfied or dissatisfied they were with the current work environment with respect to appreciation of diversity. Of the staff surveyed, 45 percent responded that they were generally or very satisfied with the current work environment with respect to appreciation of diversity, 38 percent responded that they were neither satisfied nor dissatisfied, and 17 percent responded that they were generally or very dissatisfied. While a large percentage of staff were neither satisfied nor dissatisfied with the current work environment with respect to appreciation of diversity, some of the comments provided by such staff were similar to those provided by staff who were generally or very satisfied. For example, such comments included that the division is committed to EEO and values staff diversity.

Although headquarters staff were more positive than regional office staff about EEO, the difference between them was not as pronounced as in the previous questions. Forty-six percent of headquarters staff were generally or very satisfied with the current work environment with respect to appreciation of diversity, while 38 percent of the regional office staff were generally or very satisfied.

Modernization of Recordkeeping Systems

The internal review found that the Division of Enforcement did not have an on-line database of matters under investigation or related information. According to CFTC officials, the division is working with CFTC's Office of Information and Resource Management to consolidate several of its information-tracking systems, which were developed over the years to track various investigative and litigation data. This modernization project is intended to provide a comprehensive database that tracks matters from point of referral through the investigation and litigation phases. It is also intended to provide staff with on-line access to certain forms and templates commonly used in investigations and litigation. According to CFTC officials, the Office of Information and Resource Management has

recently completed the first phase of the project and is not scheduled to complete the final phase until after September 1999.

We did not solicit staff views on the modernization of recordkeeping systems. Because the system was not fully implemented, it was too early to obtain meaningful feedback from staff.

Indicators of CFTC's Commitment to Its Enforcement Program

In addition to the changes made to the Division of Enforcement, we looked for other indicators of CFTC's commitment to its enforcement program. As one indicator of such commitment, we found that the current CFTC chairperson, similar to the previous chairperson, has made strengthening the division a priority. For example, CFTC has increased the division's staff years and budget each year for fiscal years 1995 through 1997—expanding the division's authorized staff years from 142 to 159 and its budget from $12.8 million to $16 million. Most recently, the chairperson requested a fiscal year 1999 budget increase to support, among other things, 10 additional enforcement staff. According to the chairperson, this allocation would complete the division's reorganization, which began in fiscal year 1995, and bring the division's employment to its highest level since fiscal year 1992.

Another indicator of CFTC's commitment to its enforcement program is the extent to which the futures industry views CFTC as having an effective market presence. Although disagreeing over the appropriateness of CFTC's actions, futures industry officials said that CFTC appears to be taking a more aggressive stance against CEA violators by imposing more severe sanctions and penalties. For example, officials of the National Futures Association said that CFTC appears to be imposing steeper fines and seeking customer restitution more frequently. Likewise, officials from two futures exchanges said that CFTC appears to be imposing larger monetary fines and longer trading bans. Consistent with the views of these officials is CFTC's recent settlement with Sumitomo Corporation for $150 million, of which $125 million was a civil penalty for violating the CEA and $25 million was to provide restitution to those injured by the corporation's conduct. Similarly, exchange officials said that the Commission appears to be imposing increased sanctions in cases it has reviewed on appeal. Our review of such cases showed that, between May 1996 and March 1998, the Commission reviewed 26 administrative law decisions on appeal and imposed increased sanctions in 15 of the cases, or about 58 percent.[14]

[14]CFTC's administrative law judges render decisions in enforcement cases brought by the Division of Enforcement. All parties to an administrative hearing have the right to file an appeal of the administrative law judge's decision with the Commission.

We also surveyed enforcement staff to obtain their overall views on the effectiveness and efficiency of the Division of Enforcement. Of the staff surveyed, 72 percent responded that the division is operating effectively and efficiently from a moderate to a very great extent, while 13 percent responded that the division is operating in such a manner to little or no extent. Headquarters staff were still more positive than regional office staff. Ninety-six percent of the headquarters staff, compared with 57 percent of regional office staff, responded that the division is operating effectively and efficiently from a moderate to a very great extent.

Finally, we surveyed enforcement staff on how satisfied they were with the quality of work currently being done by the division. Of the staff surveyed, 79 percent responded that they were generally or very satisfied with the quality of work being done by the division, while 11 percent were generally or very dissatisfied. As in the above question, headquarters staff were more positive than regional office staff. All of the headquarters staff surveyed were generally or very satisfied with the quality of work done by the division, while 66 percent of regional office staff were generally or very satisfied.

Conclusions

CFTC's Division of Enforcement has made numerous changes to improve its efficiency and effectiveness. Although data were not available to determine whether such changes have had their intended effect, the enforcement staff that we surveyed generally viewed the division's current organization and operations more positively than negatively. However, in each of the areas covered by our survey, differences consistently existed between the views of the headquarters and regional office staff that were surveyed. These differences were most pronounced in three areas—the division's organizational structure, written guidance on investigations, and review process for action recommendations. Although not explained by our survey, these differences in enforcement staff views raise questions for us about the effectiveness of CFTC's changes at the regional office level.

In addition, further action to improve its efficiency and effectiveness are possible in at least two areas where changes were made. First, the absence of a formal training plan may limit the division's ability to ensure that all staff training needs are addressed. A formal training plan should be a more effective and efficient mechanism for achieving this goal and should be particularly valuable, given the influx of new staff and the introduction of teams that must respond to a broader range of matters. Second, the division's lack of a complete policies and procedures manual may limit the

division's ability to ensure that all staff have a clear and consistent understanding of the standards to be followed in doing their work. A more complete manual should be a more effective and efficient tool for achieving this goal and should be particularly valuable, given the division's organizational and operational changes—including a new management team—and the absence of a formal training plan.

Based on our observations, CFTC appears committed to a strong enforcement program. In addition to the changes planned or made, the chairperson has been successful in increasing division resources, the industry views the agency as acting more aggressively against CEA violators, and most of the surveyed staff believe the division is operating well and producing quality work.

Recommendations

We recommend that the Chairperson, CFTC,

- assess the reasons behind the differences in views between Division of Enforcement headquarters and regional office staff in the areas where changes were made to determine whether opportunities exist for further improvements;
- develop a formal training plan for the Division of Enforcement that includes a strategy for (1) identifying areas in which staff need training, (2) providing staff with this training, and (3) tracking and assessing the training staff receive; and
- expand the Division of Enforcement's procedures manual to include all of the division's major policies and procedures applicable to its investigative and litigation processes.

Agency Comments and Our Evaluation

Written comments from CFTC on a draft of this report are contained in appendix II. CFTC generally agreed with the facts and conclusions and agreed to consider the recommendations in the draft report. The Director of the Division of Enforcement also provided technical comments on the draft report, which were incorporated as appropriate.

We are sending copies of this report to the Ranking Minority Members of your Committee and Subcommittee; the Chairperson, CFTC; and other interested parties. We will also make copies available to others upon request.

Please contact me at (202) 512-8678 or Cecile O. Trop, Assistant Director, at (312) 220-7600 if you or your staff have any questions. Major contributors to this report are listed in appendix IV.

Richard J. Hillman
Associate Director, Financial Institutions
and Markets Issues

Contents

Letter	1
Appendix I Objectives, Scope, and Methodology	22
Appendix II Comments From CFTC	24
Appendix III GAO Survey of CFTC's Division of Enforcement Staff and the Survey Results	26
Appendix IV Major Contributors to This Report	42

Abbreviations

CEA	Commodity Exchange Act
CFTC	Commodity Futures Trading Commission
EEO	Equal Employment Opportunity
CEA	Commodity Exchange Act
PCIE	President's Council on Integrity and Efficiency

Objectives, Scope, and Methodology

Our objectives were to (1) provide information on the changes that CFTC made in response to its internal review of the Division of Enforcement, including enforcement staff views on areas in which such changes were made; (2) identify further opportunities for improvement, if any, in these areas; and (3) provide other available information that might indicate CFTC's commitment to its enforcement program.

To accomplish our first two objectives, we discussed the Division of Enforcement's organization and operations with officials from its headquarters as well as Chicago and New York regional offices. We also reviewed documentation on the CFTC internal review; division policies and procedures, training manuals, and other written guidance; Securities and Exchange Commission and Department of Justice policy and procedures and training manuals; and quality standards for investigations issued by the President's Council on Integrity and Efficiency.

To obtain enforcement staff views on areas in which changes were made, we used a structured questionnaire to survey 65 investigators and trial attorneys—about 50 percent of the Division of Enforcement's professional staff. These staff were located in CFTC's headquarters office in Washington, D.C., and its regional offices in Chicago, IL; Los Angeles, CA; and New York, NY. To obtain the views of a cross-section of enforcement staff, we judgmentally selected staff based on their location, position, grade, and employment date—distinguishing between those hired before and after March 31, 1995 (the approximate time that the internal review was completed). Of the staff surveyed, 43 were hired before March 31, 1995, and 22 were hired after that date; 40 were from the regions and 25 were from headquarters.

To administer the structured questionnaire, we sent a copy to the selected staff in April 1998 and then met individually with them to obtain and discuss their responses. To encourage candor, we did not retain identifiers on individual responses, and we reported the responses in the aggregate only. For some questions, surveyed staff indicated that they did not have adequate knowledge or experience on which to base their answers. Such responses were recorded as "no basis to judge" and were not included when calculating the percentage of staff that gave a particular response to a survey question. Our survey results reflect only the views of the enforcement staff that we surveyed. (See app. III for a copy of the structured questionnaire and survey results.)

Because CFTC had not done a similar survey as part of its internal review, we lacked a baseline against which to compare our survey results to determine whether staff views changed from the period when the internal review was conducted. In an attempt to obtain staff views on the effectiveness of the changes made, we asked staff hired on or before March 31, 1995, whether their responses to certain questions represented an improvement over the period prior to March 31, 1995. Staff responses to these questions did not provide a clear indication of whether staff viewed the changes as being effective. As a result, they are not discussed in this report.

In the absence of specific data on the changes made, we reviewed the division's performance measures for fiscal years 1993 through 1997—the period before and after CFTC's internal review. The performance measures included the number of investigations and enforcement cases opened, closed, and pending; the number and amount of penalties assessed; and the amount of restitution ordered. Our review did not provide a basis for assessing whether the changes had their intended effect. That is, the performance measures did not clearly indicate a difference in the division's effectiveness or efficiency that could be linked to the changes made. As a result, our review of the division's performance measures are not discussed in this report.

To accomplish our third objective, we reviewed the agency's budget data, fiscal year 1999 appropriation testimony, strategic and annual performance plans, and annual reports. We also interviewed representatives of the Chicago Board of Trade, Chicago Mercantile Exchange, New York Mercantile Exchange, Futures Industry Association,[15] and National Futures Association[16] to discuss their views on the effectiveness of the division.

We did not verify the accuracy of the documentation and other information provided to us. We did our fieldwork between November 1997 and May 1998 in accordance with generally accepted government auditing standards.

[15]The Futures Industry Association is the national trade association of the futures industry.

[16]The National Futures Association is a self-regulatory organization that is responsible, under CFTC oversight, for qualifying commodity futures professionals for registration and regulating the sales practices, business conduct, and financial condition of member firms.

Comments From CFTC

U.S. COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581

Brooksley Born
Chairperson

(202) 418-5030
(202) 418-5520 Facsimile

August 11, 1998

Mr. Richard J. Hillman
Associate Director
Financial Institutions and Markets Issues
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Hillman:

Thank you for the opportunity to review and to comment upon the General Accounting Office's report on the actions the Commission has taken to strengthen its Division of Enforcement.

As the report notes, the Commission and the Division have taken many steps over the last few years across a wide sweep of categories, including organization, personnel, training, review, communications and equal employment opportunity, to improve the effectiveness of the Division. Those efforts have required the unswerving commitment of the Division staff, and I have very much appreciated its dedication to creating and maintaining an outstanding program. Although it is inherently difficult to measure the effectiveness of our efforts to maintain the integrity of the markets and the welfare of customers, I am heartened by the report that the marketplace perceives that the enforcement program has become more aggressive and that the staff itself has an overall positive view of the quality, effectiveness and efficiency of the program. I certainly concur in those views.

I also appreciate and will carefully consider the proposals made in your report. There is always room to improve any endeavor, particularly one that must be responsive to changes in a dynamic marketplace. It is important, especially in a small agency like the Commission, to balance formalism with flexibility and reliance on the professionalism and creativity of the staff, particularly supervisors, with the need for uniformity. Your proposals will give us the opportunity to look at those issues again, particularly with a focus on training and procedures.

Mr. Richard J. Hillman
Page 2

In closing, I want to reiterate how much I appreciate the efforts of the staff of the Division to building and maintaining an outstanding enforcement program. I am pleased that your report reflects their efforts, which have my full support and which I am confident will continue.

Sincerely yours,

Brooksley Born

Brooksley Born

GAO Survey of CFTC's Division of Enforcement Staff and the Survey Results

United States General Accounting Office

Survey of Commodity Futures Trading Commission Division of Enforcement

INTRODUCTION

GAO is reviewing the initiatives CFTC has taken since early 1994 to reorganize its enforcement program. As part of this review, we are interviewing Division of Enforcement staff to obtain their views on aspects of the enforcement program's operations. Responses will be kept confidential and will be reported only in the aggregate.

If you have any questions, please call Rich Tsuhara or Patrick Ward at (312) 220-7600.

BACKGROUND

Interviewee number: _____

Position and grade: _____

Years at CFTC: _____

Note: Totals do not always sum to 100 percent because of rounding. Also, "no basis to judge" responses were not included in the percentage calculations.

I. Organizational Structure

1.To what extent, if any, does the Division of Enforcement's current organizational structure contribute to your ability to conduct investigations?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	5	20%	0	0%	5	8%
B. To a great extent	11	44	11	28	22	34
C. To a moderate extent	6	24	9	23	15	23
D. To some extent	3	12	12	30	15	23
E. To little or no extent	0	0	8	20	8	12

1A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 1 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	0	0%	1	3%	1	2%
B. To a great extent	6	46	3	10	9	21
C. To a moderate extent	1	8	8	27	9	21
D. To some extent	2	15	4	13	6	14
E. To little or no extent	4	31	14	47	18	42

2. To what extent, if any, does the Division of Enforcement's current organizational structure contribute to your ability to conduct litigation?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	2	10%	0	0%	2	4%
B. To a great extent	11	55	10	27	21	37
C. To a moderate extent	5	25	7	19	12	21
D. To some extent	1	5	10	27	11	19
E. To little or no extent	1	5	10	27	11	19
F. No basis to judge	5	•	3	•	8	•

2A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 2 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	0	0%	0	0%	0	0%
B. To a great extent	5	50	2	7	7	18
C. To a moderate extent	0	0	4	14	4	11
D. To some extent	1	10	4	14	5	13
E. To little or no extent	4	40	18	64	22	58
F. No basis to judge	3	•	2	•	5	•

3.To what extent, if any, does your team's current organizational structure provide enforcement staff with a clear chain of command?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	13	54%	7	18%	20	31%
B. To a great extent	6	25	14	35	20	31
C. To a moderate extent	3	13	8	20	11	17
D. To some extent	2	8	7	18	9	14
E. To little or no extent	0	0	4	10	4	6
F. No basis to judge	1	•	0	•	1	•

3A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 3 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	2	17%	3	10%	5	12%
B. To a great extent	2	17	3	10	5	12
C. To a moderate extent	4	33	2	7	6	15
D. To some extent	2	17	7	24	9	22
E. To little or no extent	2	17	14	48	16	39
F. No basis to judge	1	•	1	•	2	•

4. How satisfied or dissatisfied are you that the person who completes your performance appraisal form is aware of your abilities and contributions?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	12	48%	5	13%	17	26%
B. Generally satisfied	9	36	16	40	25	38
C. Neither satisfied nor dissatisfied	1	4	9	23	10	15
D. Generally dissatisfied	2	8	1	3	3	5
E. Very dissatisfied	1	4	9	23	10	15

4A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 4 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	3	23%	2	7%	5	12%
B. To a great extent	1	8	2	7	3	7
C. To a moderate extent	3	23	1	3	4	10
D. To some extent	1	8	2	7	3	7
E. To little or no extent	5	38	22	76	27	64
F. No basis to judge	0	•	1	•	1	•

5. How satisfied or dissatisfied are you with the current definition of the roles and responsibilities of investigators?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	2	8%	2	5%	4	6%
B. Generally satisfied	12	48	10	25	22	34
C. Neither satisfied nor dissatisfied	5	20	10	25	15	23
D. Generally dissatisfied	3	12	9	23	12	18
E. Very dissatisfied	3	12	9	23	12	18

5A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 5 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	1	8%	0	0%	1	2%
B. To a great extent	2	15	0	0	2	5
C. To a moderate extent	1	8	4	13	5	12
D. To some extent	1	8	2	7	3	7
E. To little or no extent	8	62	24	80	32	74

6. How satisfied or dissatisfied are you with the current definition of the roles and responsibilities of attorneys?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	5	21%	0	0%	5	8%
B. Generally satisfied	11	46	14	35	25	39
C. Neither satisfied nor dissatisfied	6	25	14	35	20	31
D. Generally dissatisfied	2	8	7	18	9	14
E. Very dissatisfied	0	0	5	13	5	8
F. No basis to judge	1	•	0	•	1	•

6A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 6 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	1	8%	0	0%	1	2%
B. To a great extent	3	25	1	3	4	10
C. To a moderate extent	0	0	5	17	5	12
D. To some extent	3	25	3	10	6	14
E. To little or no extent	5	42	21	70	26	62
F. No basis to judge	1	•	0	•	1	•

7. How satisfied or dissatisfied are you with the current organizational structure of the Division of Enforcement?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	6	24%	2	5%	8	12%
B. Generally satisfied	13	52	12	30	25	38
C. Neither satisfied nor dissatisfied	3	12	10	25	13	20
D. Generally dissatisfied	3	12	13	33	16	25
E. Very dissatisfied	0	0	3	8	3	5

7A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 7 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	2	15%	1	3%	3	7%
B. To a great extent	4	31	4	13	8	19
C. To a moderate extent	1	8	5	17	6	14
D. To some extent	2	15	3	10	5	12
E. To little or no extent	4	31	17	57	21	49

II.Training and Guidance

1. To what extent, if any, are your training needs being met by any periodic training you receive, other than the annual training conference?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	1	4%	4	10%	5	8%
B. To a great extent	8	33	5	13	13	20
C. To a moderate extent	5	21	9	23	14	22
D. To some extent	4	17	11	28	15	23
E. To little or no extent	6	25	11	28	17	27
F. No basis to judge	1	•	0	•	1	•

2. To what extent, if any, did the Division of Enforcement's most recent annual in-house training conference meet your training needs?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	1	5%	3	8%	4	7%
B. To a great extent	7	32	7	19	14	24
C. To a moderate extent	7	32	11	30	18	31
D. To some extent	6	27	11	30	17	29
E. To little or no extent	1	5	5	14	6	10
F. No basis to judge	3	•	3	•	6	•

3. To what extent, if any, are your training needs being met by the on-the-job training you receive?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	3	12%	4	10%	7	11%
B. To a great extent	10	40	7	18	17	26
C. To a moderate extent	6	24	9	23	15	23
D. To some extent	3	12	8	20	11	17
E. To little or no extent	3	12	12	30	15	23

4. To what extent, if any, are your training needs being met by the combination of all the training you receive?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	2	8%	2	5%	4	6%
B. To a great extent	7	29	10	25	17	27
C. To a moderate extent	10	42	10	25	20	31
D. To some extent	5	21	12	30	17	27
E. To little or no extent	0	0	6	15	6	9
F. No basis to judge	1	•	0	•	1	•

4A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 4 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	2	15%	1	3%	3	7%
B. To a great extent	1	8	4	13	5	12
C. To a moderate extent	4	31	7	23	11	26
D. To some extent	2	15	5	17	7	16
E. To little or no extent	4	31	13	43	17	40

5. How satisfied or dissatisfied are you with the written guidance that is available to assist you in conducting investigations?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	7	29%	0	0%	7	11%
B. Generally satisfied	12	50	15	38	27	42
C. Neither satisfied nor dissatisfied	3	13	10	25	13	20
D. Generally dissatisfied	1	4	11	28	12	19
E. Very dissatisfied	1	4	4	10	5	8
F. No basis to judge	1	•	0	•	1	•

5A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 5 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	3	23%	0	0%	3	7%
B. To a great extent	1	8	4	13	5	12
C. To a moderate extent	3	23	7	23	10	23
D. To some extent	2	15	5	17	7	16
E. To little or no extent	4	31	14	47	18	42

6. How satisfied or dissatisfied are you with the written guidance that is available to assist you in conducting enforcement actions?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	6	27%	0	0%	6	10%
B. Generally satisfied	6	27	12	31	18	30
C. Neither satisfied nor dissatisfied	8	36	16	41	24	39
D. Generally dissatisfied	2	9	7	18	9	15
E. Very dissatisfied	0	0	4	10	4	7
F. No basis to judge	3	•	1	•	4	•

6A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 6 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	1	8%	0	0%	1	3%
B. To a great extent	2	17	3	11	5	13
C. To a moderate extent	3	25	2	7	5	13
D. To some extent	2	17	5	18	7	18
E. To little or no extent	4	33	18	64	22	55
F. No basis to judge	1	•	2	•	3	•

III. Review Process for Action Recommendations

1. How satisfied or dissatisfied are you with the guidance that you currently receive on making action recommendations?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	6	26%	1	3%	7	11%
B. Generally satisfied	12	52	11	29	23	38
C. Neither satisfied nor dissatisfied	3	13	8	21	11	18
D. Generally dissatisfied	2	9	9	24	11	18
E. Very dissatisfied	0	0	9	24	9	15
F. No basis to judge	2	•	2	•	4	•

1A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 1 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	1	8%	0	0%	1	2%
B. To a great extent	4	33	2	7	6	14
C. To a moderate extent	1	8	2	7	3	7
D. To some extent	3	25	4	13	7	17
E. To little or no extent	3	25	22	73	25	60
F. No basis to judge	1	•	0	•	1	•

2. How satisfied or dissatisfied are you with the timeliness of the current review process for action recommendations?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	2	9%	1	3%	3	5%
B. Generally satisfied	15	65	12	31	27	44
C. Neither satisfied nor dissatisfied	3	13	7	18	10	16
D. Generally dissatisfied	3	13	9	23	12	19
E. Very dissatisfied	0	0	10	26	10	16
F. No basis to judge	2	•	1	•	3	•

2A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 2 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	1	8%	1	3%	2	5%
B. To a great extent	4	33	3	10	7	17
C. To a moderate extent	1	8	4	13	5	12
D. To some extent	2	17	3	10	5	12
E. To little or no extent	4	33	19	63	23	55
F. No basis to judge	1	•	0	•	1	•

IV. Communication Within the Division of Enforcement

1. How satisfied or dissatisfied are you with the guidance that the Division of Enforcement currently provides on the types of violations that you should pursue?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	4	16%	5	13%	9	14%
B. To a great extent	11	44	13	33	24	37
C. To a moderate extent	5	20	8	20	13	20
D. To some extent	3	12	11	28	14	22
E. To little or no extent	2	8	3	8	5	8

1A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 1 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	3	23%	1	3%	4	9%
B. To a great extent	2	15	4	13	6	14
C. To a moderate extent	1	8	2	7	3	7
D. To some extent	2	15	4	13	6	14
E. To little or no extent	5	38	19	63	24	56

2. To what extent, if any, does Division of Enforcement management currently communicate policy-related information to you in a timely manner?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	10	40%	4	10%	14	22%
B. To a great extent	8	32	8	20	16	25
C. To a moderate extent	3	12	12	30	15	23
D. To some extent	3	12	12	30	15	23
E. To little or no extent	1	4	4	10	5	8

2A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 2 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	4	33%	2	7%	6	14%
B. To a great extent	3	25	4	13	7	17
C. To a moderate extent	2	17	5	17	7	17
D. To some extent	2	17	4	13	6	14
E. To little or no extent	1	8	15	50	16	38
F. No basis to judge	1	•	0	•	1	•

V. Equal Employment Opportunity Activities

1. How satisfied or dissatisfied are you with the current work environment with respect to equal opportunities to develop your job skills?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	8	32%	5	13%	13	20%
B. Generally satisfied	8	32	17	43	25	38
C. Neither satisfied nor dissatisfied	6	24	6	15	12	18
D. Generally dissatisfied	1	4	6	15	7	11
E. Very dissatisfied	2	8	6	15	8	12

1A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 1 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	0	0%	0	0%	0	0%
B. To a great extent	1	8	0	0	1	2
C. To a moderate extent	1	8	5	17	6	14
D. To some extent	1	8	4	13	5	12
E. To little or no extent	9	75	21	70	30	71
F. No basis to judge	1	•	0	•	1	•

2. How satisfied or dissatisfied are you with the current work environment with respect to equal opportunities for promotion?[1]

A. Very satisfied
B. Generally satisfied
C. Neither satisfied nor dissatisfied
D. Generally dissatisfied
E. Very dissatisfied

2A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 2 represent an improvement over the period prior to March 31, 1995?[2]

A. To a very great extent
B. To a great extent
C. To a moderate extent
D. To some extent
E. To little or no extent

3. How satisfied or dissatisfied are you with the current work environment with respect to appreciation of diversity?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	7	28%	7	18%	14	22%
B. Generally satisfied	7	28	8	20	15	23
C. Neither satisfied nor dissatisfied	8	32	17	43	25	38
D. Generally dissatisfied	1	4	4	10	5	8
E. Very dissatisfied	2	8	4	10	6	9

[1]Responses are omitted because surveyed staff generally did not interpret the question in an EEO context. From our follow-up interviews, we learned that staff typically answered the question in the context of how satisfied they were with their opportunity to be promoted, regardless of EEO.

[2]See footnote 1.

3A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 3 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	0	0%	0	0%	0	0%
B. To a great extent	2	18	2	7	4	10
C. To a moderate extent	0	0	1	3	1	2
D. To some extent	2	18	6	20	8	20
E. To little or no extent	7	64	21	70	28	68
F. No basis to judge	2	•	0	•	2	•

VI. Overall Assessment

1. To what extent, if any, is the Division of Enforcement operating in an efficient and effective manner on an overall basis?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	4	16%	1	3%	5	8%
B. To a great extent	10	40	10	26	20	31
C. To a moderate extent	10	40	11	28	21	33
D. To some extent	1	4	9	23	10	16
E. To little or no extent	0	0	8	21	8	13
F. No basis to judge	0	•	1	•	1	•

1A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 1 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	2	17%	0	0%	2	5%
B. To a great extent	3	25	7	23	10	24
C. To a moderate extent	4	33	2	7	6	14
D. To some extent	1	8	6	20	7	17
E. To little or no extent	2	17	15	50	17	40
F. No basis to judge	1	•	0	•	1	•

2. How satisfied or dissatisfied are you with the quality of work being done by the Division of Enforcement on an overall basis?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. Very satisfied	11	44%	5	13%	16	25%
B. Generally satisfied	14	56	21	53	35	54
C. Neither satisfied nor dissatisfied	0	0	7	18	7	11
D. Generally dissatisfied	0	0	6	15	6	9
E. Very dissatisfied	0	0	1	3	1	2

2A. IF RESPONDENT HIRED BEFORE 3/31/95: To what extent, if any, does your answer to question number 2 represent an improvement over the period prior to March 31, 1995?

	Headquarters		Regions		Combined	
	Number	Percent	Number	Percent	Number	Percent
A. To a very great extent	2	15%	1	3%	3	7%
B. To a great extent	3	23	5	17	8	19
C. To a moderate extent	3	23	3	10	6	14
D. To some extent	3	23	3	10	6	14
E. To little or no extent	2	15	18	60	20	47

Major Contributors to This Report

Chicago Field Office

Cecile O. Trop, Assistant Director
Richard S. Tsuhara, Senior Evaluator
Patrick A. Ward, Senior Evaluator

General Government Division

Carl M. Ramirez, Senior Social Science Analyst

Office of the General Counsel

Rosemary Healy, Senior Attorney

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. VISA and MasterCard credit cards are accepted, also. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

U.S. General Accounting Office
P.O. Box 37050
Washington, DC 20013

or visit:

Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders may also be placed by calling (202) 512-6000
or by using fax number (202) 512-6061, or TDD (202) 512-2537.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

For information on how to access GAO reports on the INTERNET, send an e-mail message with "info" in the body to:

info@www.gao.gov

or visit GAO's World Wide Web Home Page at:

http://www.gao.gov

PRINTED ON RECYCLED PAPER

United States
General Accounting Office
Washington, D.C. 20548-0001

Bulk Rate
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use $300

Address Correction Requested