# Attorneys' perceptions of cooperation credit and the deterrent value of SEC and DOJ penalties

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**ABSTRACT**

Public company financial reporting fraud remains a persistent challenge despite stringent regulations such as Sarbanes-Oxley Act of 2002. This study adopts a survey-based design to examine the influence of cooperation credit on U.S. attorneys' perceptions of the deterrent value and fairness of SEC civil and DOJ criminal penalties. A total of seventy-four attorneys were surveyed and divided into two groups: one informed of cooperation credit granted to violators and the other not. Statistical analyses, including descriptive statistics and Mann-Whitney U test, revealed that cooperation credit significantly impacts perceptions of specific penalties, particularly for lower-level executives, but does not alter broader views on deterrence adequacy. Attorneys expressed strong support for imposing penalties on companies regardless of stock price declines and emphasized the need for a standardized framework for calculating penalties to ensure fairness and transparency. These findings provide actionable insights for policymakers aiming to enhance the effectiveness and fairness of enforcement practices in the regulatory environment.

Keywords**:** SEC civil penalty, DOJ criminal penalty, cooperation credit, deterrence value, financial fraud.

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## INTRODUCTION

Under the Securities Act of 1933 and the Securities Exchange Act of 1934, the Securities Exchange Commission (SEC) has authority to impose penalties aimed at deterring misconduct and promoting market integrity. For cases involving potential criminal offenses, the SEC often refers matters to the U.S. Department of Justice (DOJ) for further criminal prosecution. Despite efforts by the SEC and the DOJ, violations of securities laws persist and continue to challenge the regulatory landscape. Financial fraud undermines public trust in securities markets, which are pivotal to the global economy. By the end of 2023, the combined market capitalization of public companies in the U.S. reached $50.8 trillion, marking a 236.7% increase since 2010 (Siblis, 2024). The scale of these markets underscores the importance of robust enforcement practices to ensure fairness, integrity, and investor protection.

The SEC follows a structured process detailed in its Enforcement Manual (SEC, 2022) to identify and prosecute violators. To deter misconduct, the SEC and DOJ rely on enforcement tools such as civil monetary penalties and prison sentences. However, the DOJ can reduce penalties through cooperation credit, a system incentivizing a violator to assist investigations in exchange for leniency. While cooperation credit allows regulators to conserve resources and effectively pursue complex cases, critics argue that it diminishes the deterrent impact of penalties, particularly for large firms and high-ranking executives. For example, cooperation credit agreements are perceived as a "cost of doing business," thereby failing to prevent future misconduct (St-Georges et al., 2023).

This study explores U.S. attorneys' perceptions of penalties under the influence of cooperation credit, focusing on five core questions:

1. Does cooperation credit affect perceptions of the deterrent value of SEC and DOJ penalties?
2. Are civil monetary penalties perceived as sufficient deterrents for future misconduct?
3. Do attorneys support standardized methodologies for calculating penalties to improve fairness and consistency?
4. How do perceptions vary by demographic factors such as legal specialization and experience?
5. Are penalties perceived differently when fraud impacts company stock prices?

A comprehensive overview of the charges and penalties imposed against violators, include fraud, insider trading, falsified books and records, and circumvention of internal controls, and other violations. While the comprehensive review as indicated in Exhibit 1 (Appendix) offers essential context about the regulatory environment and enforcement landscape, the focus of this study is on SEC monetary penalties and DOJ prison sentences. The two penalty types represent distinct forms of deterrence: financial deterrence through SEC monetary penalties and personal deterrence through DOJ prison sentences. The inclusion of additional charges and penalties provides context but does not expand the scope of this analysis.

This survey-based study collected responses from attorneys using a structured questionnaire involving a real-world bank financial fraud case. The evidence shows that cooperation credit may vary depending on the executive's role and level of responsibility, with mid-level executives (like chief operating officer (COO) being more influenced than higher-or-

lower-ranking individuals. Attorneys perceive that the civil monetary penalties should increase to strengthen their deterrent effect. However, attorneys perceive that the DOJ penalties are strong deterrent against fraud. Additionally, they perceive that the SEC should establish a set-criteria for imposing civil monetary penalties to enhance penalty deterrence, fairness, and the role of standardization.

This paper makes the following contributions. First, by examining the nuanced effects of cooperation credit on penalty perceptions using attorneys, this study addresses gaps in existing research, which has focused primarily on penalty outcomes rather than stakeholder attitudes. Second, the findings highlight attorneys' support for standardized penalty methodologies, offering actionable insights for policymakers seeking to enhance fairness and enforcement consistency. Third, this study provides an exploratory framework for assessing the relationship between regulatory strategies (e.g., cooperation credit) and stakeholder perceptions, paving the way for future research.

The remainder of the paper is organized as follows: Section 2 presents a review of relevant literature and hypotheses development. Section 3 describes the research methodology. Section 4 presents the results. Finally, Section 5 concludes with a summary of the study, limitations, and recommendations for future research.

## LITERATURE REVIEW AND HYPOTHESES DEVELOPMENT

### The SEC's Cooperation Credit Policy

To encourage cooperation in securities law enforcement, the SEC has implemented various programs over the years. The first significant step was the issuance of the Seaboard Report in 2001, which outlined measures for leniency based on self-policing, self-reporting, remediation, and cooperation (SEC, 2001). In 2010, the SEC expanded its cooperation policy to individuals, providing a detailed framework for assessing the extent and impact of their cooperation (SEC, 2010). Cooperation credit can result in reduced penalties or non-prosecution, incentivizing violators to assist in investigations.

Empirical studies reveal mixed outcomes regarding the effectiveness of cooperation credit. Files (2012) found that cooperation significantly reduces penalties for firms and individuals, often by millions of dollars. Similarly, Files et al. (2019) and Leone et al. (2021) confirmed that cooperation leads to substantial reductions in penalties, though this effect has varied over time. However, St-Georges et al. (2023) highlight a potential downside: the perception that leniency agreements may weaken the deterrent effect of penalties, especially for large corporations. While cooperation agreements conserve resources for regulators, they risk creating an environment where violators perceive penalties as a manageable "cost of doing business." This tension between leniency and deterrence is at the core of this study. Given these findings, it is unclear whether cooperation credit alters perceptions of the deterrent effect of penalties. The authors posit the following hypothesis:

**H1:** Attorneys perceive no significant difference in the deterrence of SEC civil monetary penalties imposed on executive officers, regardless of cooperation credit.

## DOJ Criminal Penalties: Executives Officer

The DOJ also employs cooperation credit in its enforcement actions, guided by its Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy. Cooperation can result in significant reductions in criminal penalties, including prison sentences, under strict guidelines (DOJ, 2013). The DOJ imposes criminal penalties for securities violations, often targeting high-level executives. These penalties include substantial fines and lengthy prison sentences, such as those mandated under the Sarbanes-Oxley Act of 2002, which prescribes up to 20 years in prison for fraudulent financial reporting (SOX, 2002).

Scholars argue that criminal penalties carry a stronger deterrent effect than civil penalties due to their severity (Rich, 2016). Podgor (2007) notes that high-profile cases, such as those involving Enron and WorldCom executives, have demonstrated the DOJ's willingness to impose significant sentences to deter future violations. Despite this, cooperation agreements remain controversial. Critics argue that such agreements may undermine deterrence by reducing the harshness of penalties for those who cooperate. Building on this literature, the study examines whether cooperation credit affects perceptions of criminal penalties. The authors posit the following hypothesis:

**H2:** Attorneys perceive no significant difference in the deterrence of DOJ criminal prison sentencing imposed on executive officers, regardless of cooperation credit.

## Civil Monetary Penalties Imposed on the Company

Public companies often face civil monetary penalties for violations of securities laws. The penalties are intended to deter misconduct and hold companies accountable for the actions of their executives. However, scholars like Rashkover and Winter (2005) and Rosenfield (2019) argue that penalizing companies unfairly burdens shareholders, who are not directly responsible for the misconduct. Furthermore, evidence suggests that larger firms often pay reduced penalties due to their financial capacity to negotiate leniency agreements (Files et al., 2019).

Despite these criticisms, public opinion generally supports penalizing companies for fraudulent activities, even when it results in financial losses or job cuts (St-Georges et al., 2023). This reflects a broader expectation that companies bear some responsibility for the actions of their management. However, the deterrent effect of such penalties remains questionable, especially when they are reduced through cooperation credit or perceived as inconsequential relative to the company's overall financial position. To address this issue, the study explores whether attorneys believe companies should pay penalties regardless of cooperation credit or financial consequences. The authors posit the following hypothesis:

**H3:** Attorneys perceive no significant difference in whether a company should pay a civil monetary penalty when there is a decline in the company's stock price due to fraud, regardless of cooperation credit.

## The Deterrent Effect of SEC Civil Monetary Penalties

The SEC imposes billions of dollars in civil monetary penalties annually to deter financial fraud. Despite this, evidence suggests that these penalties may not achieve their

intended deterrent effect. For instance, Rosenfield (2019) identifies repeat offenders among large financial firms, suggesting that penalties alone do not prevent future misconduct. Similarly, Eisenberg (2016) argues that when penalties are viewed as insufficient relative to the benefits of fraud, they fail to deter violators. This study builds on these findings by examining attorneys' perceptions of whether SEC penalties are adequate to deter future violations. The authors posit the following hypothesis:

**H4:** Attorneys perceive that SEC civil monetary penalties are not severe enough to deter violators from committing future financial reporting fraud.

**SEC's Methodology for Assessing Civil Monetary Penalties**

**Research Design**

The administrative law judges may use diverse methodologies to determine civil monetary penalties as in Panel B of Exhibit 1(Appendix). The methodology enables judges to assess a penalty for each "act or omission" or treat all acts as "one act." According to Eisenberg (2016) and Rashkover and Winter (2005), the SEC has based its penalty assessment on factors such as the public interest, harm to others, cases of unjust enrichment, disciplinary history of violators, the need to deter, and other matters that are not based on a consistent methodology for penalty assessment.

The SEC's current methodology for calculating civil monetary penalties has been criticized for its lack of consistency and transparency. Scholars like Cox and Thomas (2003) and Eisenberg (2016) describe the process as a "lottery system," where penalties are determined case-by-case without a standardized framework. This inconsistency undermines the perception of fairness and weakens the deterrent value of penalties. To address these concerns, researchers and policymakers have called for the adoption of a standardized methodology for penalty assessment (Rashkover and Winter, 2005). A consistent framework could enhance equity, transparency, and deterrence in enforcement practices. This study examines whether attorneys support the implementation of such a framework. The authors posit the following hypothesis:

**H5:** Attorneys perceive that the SEC should adopt a standardized methodology for calculating civil monetary penalties to ensure consistency and fairness in penalty assessments.

## METHODOLOGY

**Research Design**

This study employed a survey-based design to investigate U.S. attorneys' perceptions of cooperation credit and its influence on SEC monetary penalties and DOJ prison sentences. The authors selected attorneys as evaluators due to their education and professional experience fostering the development of a legal concept of pragmatism that is based on legal interpretations and precedent (Mark et al., 2010) providing relevant context in which the SEC and DOJ would make decisions.

The authors developed the survey questions using details from TierOne Bank fraud case, which was highly publicized and well-known as indicted in Exhibit 1 (Appendix). To minimize pre-bias and ensure objectivity, the authors changed the names of the individuals and the

company. These modifications preserved the relevance of the real-world scenario while reducing the likelihood that respondents' prior knowledge or opinions about the case would affect their responses. The survey design and questions, as indicated in Exhibit 1 (Appendix), were pilot tested with graduate accounting students whose feedback was instrumental in refining the questions for clarity, content validity, and alignment with the study's objectives.

The comparative survey design divided the participants into two groups, each reviewing the anonymized case. Both groups responded to the nine Likert-scale questions assessing their perceptions of civil and criminal penalties imposed on violators. Attorneys in group 1were informed that the violators who were granted cooperation credit, while attorneys in group 2 was informed cooperation credit was not awarded. This comparative design enabled the study to assess how cooperation credit influences attorneys' perceptions of the deterrence and fairness of penalties, as well as their support for standardized methodologies. Although the study exploratory nature precludes a true control group, it offers valuable insights into professional attitudes and serves as a foundation for hypothesis generation.

## Participants

The seventy-four attorneys obtained from a private database possess diverse specializations, including civil, corporate, criminal, and administrative law. The demographic summary as indicated in Table 1 (Appendix) highlights the following key characteristics. Their legal specialization: 31% criminal attorneys, 27% corporate attorneys, 26% civil attorneys, and 16% administrative attorneys. Their experience: 70% of participants had more than 30 years of legal experience. Their age and gender: 86% of participants were over the age of 49 and 85% of participants were male. These demographics suggest that the participants were experienced professionals, but demographically homogeneous, which is a limitation.

## Survey Instrument

A structured questionnaire with nine questions measured attorneys' perceptions using Likert-scale items (1 = Strongly Disagree to 7 = Strongly Agree). Key survey items addressed:

1. The perceived deterrent value of SEC and DOJ penalties.
2. The influence of cooperation credit on penalty perceptions.
3. The appropriateness of financial penalties for companies.
4. The adequacy of SEC penalties to deter future misconduct.
5. Support for a standardized methodology for penalty assessment.

In addition to the nine Likert-scale questions above, attorneys were asked to comment on the following open-ended statement: Please provide your comments or recommendations on the efficacy of civil monetary penalties to deter future misconduct. This statement allows attorneys to elaborate on their thoughts and insights that cannot be captured through fixed responses.

## Data Analysis

The data analysis employed three primary statistical methods to evaluate the attorneys' perceptions of cooperation credit and penalties. Descriptive statistics, as indicated in Table 2

(Appendix), summarize the median and interquartile ranges (IQR) of the Likert-scale responses providing an overview of central tendencies and variability. The Mann-Whitney U Test, as indicated in Table 3 (Appendix), compared responses between the two groups to determine whether cooperation credit significantly influenced perceptions of deterrence, fairness, and the need for standardized methodologies. The results of the ordinal logistic regression analysis as indicated in Table 4 (Appendix), examined the influence of demographic variables on survey responses.

## RESULTS

### Descriptive Statistics

The summary statistics for the demographic variables as indicated in Table 1 (Appendix) report the frequencies, percent frequencies, minimum, and maximum values. The results show variation in the characteristics of the attorneys: 85 percent are male; 70 percent have over 30 years of experience; and 86 percent are over 49 years old. Only three of the seventy-four attorneys had experience working for the SEC and DOJ. Their work-related experience areas include administrative (16%), civil (26%), criminal (31%), and corporate (27%). Additionally, 22 percent of the attorneys have experience assessing criminal penalties and 32 percent have experience in both civil and criminal penalties (32%).

The descriptive statistics as indicated in Table 2 (Appendix) summarizes the Likert-scale responses for the two groups. For the SEC civil monetary penalties, the median responses were 2 or 3, indicating general disagreement or slight disagreement with the adequacy of the penalties as deterrents. However, the attorneys' median responses for the DOJ criminal sentencing ranged from 4 to 5, suggesting neutrality to slight agreement on the deterrent value of prison sentences. This reflects a favorable but not overwhelming perception of criminal penalties. Regarding standardized penalty assessments, there is a high median of 6 that demonstrates strong agreement among attorneys on the need for standardized penalty assessments. The attorneys indicate the same sentiment with a median response of 6 indicating a strong consensus that companies should pay penalties even when their stock price declines due to fraud.

### SEC Civil Monetary Penalties – Executive Officers

Hypothesis 1 (H1), which posits that attorneys perceive no significant difference in the SEC civil monetary penalty imposed on the CEO, COO, or CCO depending on cooperation credit, reveal mixed findings. The Mann-Whitney test results ($p= 0.186$) for the CEO and ($p=0.469$) for the CCO indicate that cooperation credit does not influence the perceptions of civil monetary penalties for these executives. Median responses for both roles, as indicated in Table 3 (Appendix) remain consistent across groups, supporting the part of H1 that suggests cooperation credit does not significantly impact the perceptions of these two executives.

However, for the COO, the Mann-Whitney test results ($p=0.010$) reveal a statistically significant difference between the two groups, indication that cooperation credit does affect the perceptions of the COO's penalties. Respondents in the cooperation group appeared more lenient or less punitive toward the COO compared to the no-cooperation group, suggesting cooperation credit influenced their evaluations.

In summary, H1 is partially supported, and the results indicate that cooperation credit does not significantly influence perceptions of penalties for the CEO and CCO, it but does affect the perceptions for the COO. This suggests that cooperation credit may vary depending on the executive’s role and level of responsibility, with mid-level executives (like COO) being more influenced than higher-or-lower-ranking individuals. These findings, as indicated in Tables 2 and 3 (Appendix), highlight the nuanced role of cooperation credit in shaping perceptions of penalty deterrence.

**DOJ Criminal Prison Sentencing - Executive Officers**

Hypothesis 2 (H2), which posits that attorneys perceive no significant difference in the SEC civil monetary penalty imposed on the CEO, COO, or CCO depending on cooperation credit. The results indicate that cooperation credit does not significantly influence attorneys’ perceptions of the deterrent value of DOJ criminal prison sentencing imposed on executive officers. Median responses for CEO, COO, CCO prison sentences, reveal no notable differences between the cooperation credit and non-cooperation credit groups as indicated in Table 2 (Appendix).

Similarly, the Mann-Whitney test result as indicated in Table 4 (Appendix) confirms the absence of statistically significant difference for the CEO ($p = 0.514$), COO ($p = 0.761$), and the CCO ($p = 0.432$) prison sentences. These findings suggest that attorneys consistently view the DOJ prison sentences as equitable and effective deterrents, regardless of cooperation credit. Thus, H2 is supported, and the evidence is highlighting that cooperation credit does not alter perceptions of the deterrent value of DOJ criminal penalties.

**Company Penalty**

Hypothesis 3 (H3) posits that attorneys perceive no significant difference in whether a company should pay a civil monetary penalty when its stock price declines due to fraud, regardless of cooperation credit. The results, as indicated in Table 2 (Appendix), show that median responses are consistent across the two groups, indicating strong agreement that companies should pay penalties even when their stock prices have declined. The Mann-Whitney test results as indicated in Table 3 (Appendix) confirm no statistically significant differences between the two groups ($p=0.507$). These findings fully support H3, demonstrating that attorneys consistently believe companies should be held accountable for financial penalties even when their stock price declines due to fraud, regardless of cooperation credit.

To evaluate the effect of the demographic covariates, the authors used an ordinal regression due to the nature of the dependent variable which ranges from 1 to 7 as indicated in Table 4 (Appendix). In summary, attorneys perceive that a company found guilty of fraud should pay civil penalties even if its stock price declines, regardless of cooperation credit. The results align with agency theory asserting corporate accountability for employee actions and St-Georges et al., (2023) report that the public believes that corporations should pay penalties.

**SEC Civil Monetary Penalty Deterrent Value**

Hypothesis 4 (H4) posits that attorneys perceive SEC civil monetary penalties are insufficient to deter violators from committing future financial reporting fraud. The findings as

indicated in Table 2 (Appendix) indicate disagreement among attorneys that the SEC civil monetary penalties have deterrence, with a median Likert score of 2 and no significant difference between the groups. The IQR median is 3 for both groups indicating a consensus among attorneys that the civil monetary penalties are not severe enough to serve as a deterrent.

The Mann-Whitney test results as indicated in Table 3 (Appendix) (p = 0.493) confirm no statistically significant differences in perceptions between the cooperation credit and no-cooperation credit groups. These findings fully support H4, demonstrating that attorneys broadly view SEC civil monetary penalties as inadequate to deter fraudulent activities. The results highlight a shared consensus across groups regarding the need for more severe penalties to strengthen their deterrent effect.

### SEC Articulating a Standard Methodology for Civil Monetary Penalty

Hypothesis 5 (H5) posits that attorneys perceive the need for the SEC to adopt a standardized methodology for calculating civil monetary penalties to ensure consistency and fairness, regardless of cooperation. The results as indicated in Table 2 (Appendix) have a median Likert score of 6 (with an IQR of 2), indicating that the attorneys agree that the SEC should specify standard criteria for assessing civil monetary penalties. The Mann-Whitney test as indicated in Table 3 (Appendix) shows marginal significance (p = 0.099), indicating significance at the 10 percent level. Thus, results as indicated in Table 2 and 3 (Appendix) show support for H5.

The ordinal regression results as indicated in Table 4 (Appendix) indicate that the cooperation credit coefficient is negative (-1.111) and significant (p-value = 0.014), indicating attorneys in the cooperation credit group are more inclined to refrain from recommending the SEC articulate a set standard for calculating penalties. Also, the results indicate a significant influence of the demographic variables, particularly among older experienced male attorneys (p-value = 0.024), over 30 years of experience (p-value = 0.016), over 49 years old (0.009), and with civil penalty experience (p-value = 0.046) are less inclined to advocate for the SEC to adopt a set standard for assessing civil monetary penalties when they know that violators cooperated with the SEC. The results in the ordinal regression indicate strongly supports H5.

### The Efficacy of SEC's Civil Monetary Penalties

Furthermore, attorneys shared their insights through an open-ended question (No. 10) regarding the efficacy of SEC civil monetary penalties. The responses indicate that the attorneys advocate for increased transparency in assessing SEC's penalties and emphasize the necessity of augmenting civil monetary penalties to discourage future financial reporting fraud. Additionally, they proposed that Congress allocate additional resources to the SEC to bolster regulation within the financial markets.

## CONCLUSION

This study uses a survey-based design to gather attorneys' perceptions of the association of cooperation credit on the deterrence of the SEC civil monetary and DOJ criminal prison sentencing penalties. The attorneys perceive a significant difference in the SEC civil monetary penalty with mixed results depending on the level of the executive

officer. The results indicate that cooperation credit may vary depending on the executive's role and level of responsibility, with mid-level executives being more influenced than higher-or-lower-ranking individuals. Also, attorneys perceive that the civil monetary penalties should increase to strengthen their deterrent effect. However, when violators receive cooperation credit it leads the attorneys to recommend less increases in civil monetary penalties.

The findings show that cooperation credit did not affect the attorneys' perceptions regarding the DOJ criminal sentencing penalties since they perceive they have deterrent value, regardless of cooperation credit. The attorneys perceive that the prison sentencing penalties imposed by the DOJ are just, equitable, and have strong deterrence. Traditionally, criminal judgments such as prison terms are reserved for physical crimes and are more likely to be seen as having deterrent value for corporate offenses caused by regulatory breaches. Therefore, it is safe to assume that the DOJ prison time sentencing penalties have deterrence and send a powerful message to future violators of the federal securities laws.

Regarding the company penalty, attorneys agree that a company should pay a penalty even when its stock price has declined due to fraud. They advocate to hold companies accountable for the actions of their executive officers. Attorneys are also demonstrating widespread agreement on the need for standardized methodologies for assessing penalties. However, demographic differences, particularly among older, experienced attorneys and those familiar with civil penalty cases, reveal nuanced views that cooperation credit can reduce the perceived necessity for standardization. This highlights the complex interplay between policy preferences and professional background, suggesting that tailored communication strategies might be necessary to build consensus on regulatory reforms.

Overall, attorneys perceive that the SEC civil monetary penalties lack deterrent value, but the DOJ criminal penalties are deterrent, regardless of cooperation credit. The authors recommend that the SEC issue more severe and harsher penalties to deter bad actors from harming investors, and creditors, and eroding the public confidence in the financial markets. In addition, the attorneys would like the federal government to allocate more resources to the SEC to strengthen its workforce so it can prosecute more fully and send a powerful message of deterrence to potential violators of federal securities laws.

This paper has several key contributions. First, it addresses gaps in the literature by examining the nuanced effects of cooperation credit on attorneys' perceptions of penalties, shifting from penalty outcomes to stakeholder attitudes. Second, the findings reveal attorneys' support for standardized penalty methodologies, offering actionable insights for policymakers aiming to enhance fairness and enforcement consistency. Finally, the study introduces an exploratory framework for analyzing the relationship between regulatory strategies, such as cooperation credit, and stakeholder perceptions, providing a foundation for future research.

## Limitations and Directions for Future Research

This study has three limitations to discuss. First, the study's sample of seventy-four attorneys may not be representative of the broader legal community, limiting the generalizability of the findings. Second, the demographic homogeneity of the surveyed attorneys, an overwhelming majority were male (85%) and older (86% over age 49). This lack of diversity may limit the generalizability of the findings to a broader population of

legal professionals. Third, focusing on a single fraud case may limit the applicability of the findings to a broader range of scenarios involving cooperation credit and penalties.

Despite the above limitations, our study offers four avenues for future research. First, future studies can include a larger, more diverse sample of attorneys to improve generalizability. Second, investigating multiple fraud cases can provide a more comprehensive understanding of cooperation credit impact on penalties. Third, using a longitudinal analysis that examines changes in perceptions over time can offer insights into evolving attitudes toward penalties and cooperation credit. Fourth, further investigations of future research should aim to include a more demographically diverse group of attorneys to provide a broader understanding of these issues and ensure greater inclusivity in the findings. These avenues for research can build on the current study’s findings to enhance regulatory effectiveness and equity.

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Table 1: Descriptive Statistics for Demographic Variables (Sample Size = 74)

| Variables | Frequency (%) | Minimum | Maximum |
|---|---|---|---|
| SEC Experience | 3 (4%) | 0 | 1 |
| Administrative Attorney | 12 (16%) | 0 | 1 |
| Criminal Attorney | 23 (31%) | 0 | 1 |
| Corporate Attorney | 20 (27%) | 0 | 1 |
| Civil Attorney | 19 (26%) | 0 | 1 |
| Male | 63 (85%) | 0 | 1 |
| Over 30 years of experience | 52 (70%) | 0 | 1 |
| Over 49 years of age | 64 (86%) | 0 | 1 |
| CivPenExp | 24 (32%) | 0 | 1 |
| CrimPenExp | 16 (22%) | 0 | 1 |
| Group (cooperation credit) | 39 (53%) | 0 | 1 |

Table 2: Summary of Likert-Scale Variables

| | | | | | Group 1: Cooperated (n=39) | | Group 2: Did not Cooperate (n = 35) | |
|---|---|---|---|---|---|---|---|---|
| Row | Variable | Statement | Median | Inter-quartile Range | Median | Inter-quartile Range | Median | Inter-quartile Range |
| 1 | CEOCiv | Should the CEO civil penalty $500,921 be increased? | 6 | 2 | 5 | 2 | 6 | 1 |
| 2 | COOCivil | Should the COO civil penalty $225,000 be increased? | 6 | 2 | 5 | 2 | 6 | 2 |
| 3 | CCOCiv | Should CCO pay a civil penalty? | 6 | 2 | 6 | 2 | 6 | 2 |
| 4 | CEOCrim | Should CEO prison time be increased? | 4 | 2 | 4 | 2 | 4 | 1 |
| 5 | COOCrim | Should COO's prison time, 2yrs and 10 months, be increased? | 5 | 2 | 5 | 3 | 5 | 2 |
| 6 | CCOCrim | Should the CCO's prison time, 1yr and 9 months, be increased? | 4 | 3 | 4 | 3 | 5 | 2 |
| 7 | StocPrice | Freedom Corp should not pay a penalty since its stock price decreased due to the fraud. | 2 | 2.25 | 2 | 3 | 2 | 3 |
| 8 | FraudDeterr | The civil monetary penalty imposed by SEC is severe enough to deter fraud. | 2 | 3.25 | 3 | 3 | 2 | 3 |
| 9 | SEC Standard | The SEC should articulate a set standard for calculating civil monetary penalties. | 6 | 2 | 5 | 3 | 6 | 2 |

Note: 7-point Likert Scale 1= Strongly disagree, 2= Disagree, 3= Somewhat disagree, 4 = Neither agree nor disagree, 5 = Somewhat agree, 6 = Agree, 7 = Strongly Agree

Table 3: Mann-Whitney test of Significance of Cooperation Credit

| Question | | Z | P-values | Decision |
|---|---|---|---|---|
| 1 | The distribution of CEOCiv is the same across groups. | -1.321 | 0.186 | Retain the null hypothesis. |
| 2 | The distribution of COOCivil is the same across groups. | -2.590 | 0.010*** | Reject the null hypothesis. |
| 3 | The distribution of CCOCiv is the same across groups. | -0.724 | 0.469 | Retain the null hypothesis. |
| 4 | The distribution of CEOCrim is the same across groups. | -0.652 | 0.514 | Retain the null hypothesis. |
| 5 | The distribution of COOCrim is the same across groups. | -0.304 | 0.761 | Retain the null hypothesis. |
| 6 | The distribution of CCOCrim is the same across groups. | -0.786 | 0.432 | Retain the null hypothesis. |
| 7 | The distribution of StocPrice is the same across categories of Treatment. | -0.663 | 0.507 | Retain the null hypothesis. |
| 8 | The distribution of FraudDeterr is the same across groups. | -0.685 | 0.493 | Retain the null hypothesis. |
| 9 | The distribution of SECStandard is the same across groups. | -1.650 | 0.099* | Reject the null hypothesis. |

Notes: *$p < 0.10$; **$p < 0.05$; ***$p < 0.01$. The table displays asymptotic significance. Attorneys were informed about whether the violators cooperated with the SEC and the DOJ to resolve the case.

Table 4: Ordinal Regression of SEC Standard on Demographic Variables

| | Coefficient | P-values |
|---|---|---|
| Cooperation Credit | -1.111 | .014** |
| CriminalLawyer | .359 | .481 |
| Male | -1.483 | .024** |
| Over30exp | 1.479 | .016** |
| Over49 | -2.176 | .009*** |
| CivPenExp | -1.027 | .046** |
| CrimPenExp | .489 | .414 |

Notes: Dependent variable is SEC Standard. *$p < 0.10$; **$p < 0.05$; ***$p < 0.01$

EXHIBIT 1: Freedom Corp Bank Fraud Case and Survey

Instructions: Please read the following case information and answer the statements listed below. There is no right or wrong answer— we are interested in your perception.

PANEL A: Overview and Background of the Fraud Case

Freedom Corp Bank is a federally chartered savings bank primarily regulated by the Securities Exchange Commission (SEC) & the United States' Office of Thrift Supervision ("OTS"). The bank operated for almost one hundred years before listing on the NASDAQ in 2002 and becoming a publicly traded bank. As of 2009, Freedom Corp had over $3 billion in assets and 18,000,000 common shareholders. During the Great Recession, Freedom Corp experienced a dramatic increase in high-risk problem loans involving land and land development and residential construction. In June 2008, the OTS conducted a risk-focus examination of Freedom Corp's asset quality, credit administration, management, earnings, and the adequacy of allowance for loan and lease losses and determined that they were deteriorating at unprecedented rates, and the board and management performance was exceptionally poor.

Based on the findings, the OTS directed Freedom Corp to maintain higher minimum capital ratios; however, three of Freedom Corp's executive officers decided instead to rely on outdated and inadequately discounted appraisals. The chief executive officer (CEO) and chairman of board, the chief operating officer (COO) and vice president, and the chief credit officer (CCO) disregarded the OTS directions and implemented a fraudulent scheme to improve the financial performance of Freedom Corp by concealing more than $130 million in loan losses associated with the declining real estate market. The executives orchestrated the fraud scheme in multiple SEC filings. Following the public announcement of the materially understated losses, Freedom Corp's stock price dropped by 70 percent and the bank filed for bankruptcy and the OTS shut down the bank in 2010, and later absorb by another bank. Both the SEC and the DOJ imposed penalties against the three executives.

Note: At the end of the case participants in group 1 were told that the violators cooperated with SEC and DOJ to resolve their case, and participants in group 2 were informed the violators did not.

PANEL B: SEC Civil Monetary Penalties

The SEC does not have a set standard on how to calculate penalties, but under the various penalty statutes, maximum penalties in administrative proceedings are based on "each act or omission" violating or causing a violation of the securities laws. Also, in determining the amount of civil monetary penalties the Commission considers whether the individual/entity took remedial action and/or cooperated in resolving the case.

The Maximum Amount for "Each Act or Omission"

| Type of Violation | Individual | Entity |
|---|---|---|
| Tier 1: Any Violation | $6500 | $65,000 |
| Tier 2: A Violation Involving Fraud, Deceit, Manipulation or Deliberate or Reckless Disregard of Regulatory Requirement | $65,000 | $325,000 |
| Tier 3: A Tier 2 Violation plus a violation involving Risk of Loss to Others or Gain to the Violator | $130,000 | $650,000 |

PANEL C: Violators' SEC Civil Monetary Penalties & DOJ Criminal Penalties

| Respondents/Defendants | SEC Securities Laws Violations | SEC Civil Penalties | DOJ Criminal Penalties |
|---|---|---|---|
| CEO (CEO) and Chairman of Board | Fraud, aiding & abetting, insider trading, circumvention of internal control, falsified books and records, deceit of auditors, making materially false and misleading statements, and false SEC filings. | $500,921<br><br>officer and director bar of a public company | 11 years in prison and $1.2 million fine |
| Chief Operating Officer (COO) & Vice President | Fraud, aiding & abetting, circumvention of internal control, falsified books and records, deceit of auditors, making materially false and misleading statements, and false SEC filings. | $225,000,<br>permanent injunction,<br><br>officer and director bar of a public company | 2 years 10 months prison |
| Chief Credit Officer (CCO) | Fraud, aiding & abetting, circumvention of internal control, falsified books and records, deceit of auditors, making materially false and misleading statements, and false SEC filings | No civil penalty<br><br>officer and director bar of a public company | 1 year and 9 months |

Source: Panel A - Table of Penalties Adjusted for Inflation https://www.sec.gov/enforce/civil-penalties-inflation-adjustments
Note: Panel B presents the civil and criminal penalties imposed against the violators for violating the 1933 Securities and 1934 Securities Exchange Acts.

PANEL D: Survey on Financial Reporting Fraud Case

PART A: Please check the appropriate box for each of the statements below:

1. Practice Area: Administrative _____ Corporate _____ Other (specify) _______
2. Years in Practice: a. 1 – 10 _____ b. 11 -20____ c. 21- 30___ d. over 30 _____
3. Gender: Male _____ Female_____
4. Age Group: a. under 30 ________ b. 30 – 39____ c. 40 – 49______ d. 50 and over ____
5. Have you ever been employed by the Security Exchange Commission? Yes ___ No ___
6. Have you ever participated in assessing a civil penalty? Yes___ No____

PART B: Please indicate the extent of your agreement to the questions below using the following Likert scale:

1= Very Strongly Disagree, 2= Strongly Disagree, 3= Disagree, 4= Neutral, 5= Agree,

6 = Strongly Agree, 7 = Very Strongly Agree

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1. | Do you believe that the $500,921 civil monetary penalty imposed on the CEO is adequate, or should it be increased? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 2. | Do you believe that the 11-year prison sentence imposed on the CEO is adequate, or should it be increased? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 3. | Do you believe that the $225,000 civil penalty imposed on the COO is adequate, or should it be increased? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 4. | Do you believe that the 2 years and 10 months prison sentence imposed on the COO is adequate, or should it be increased? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 5. | Do you believe that the no civil monetary penalty was imposed on the CCO is adequate, or should it be increased? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 6. | Do you believe that the 1 year and 9 months prison sentence imposed on the CCO is adequate, or should it be increased? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 7. | Do you believe that Freedom Corp Bank should pay a civil monetary penalty even when its stock price is reduced due to the fraud? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8. | Do you believe that the SEC civil monetary penalties have deterrent value to prevent future financial misconduct? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 9. | Do you believe that the SEC should articulate a set standard for calculating civil monetary penalties? | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

Note: At the end of the case the participants were told whether the executive officers cooperated with the SEC and DOJ to resolve their case.

10. Open-ended Question: Please provide your comments or recommendations on the efficacy of civil monetary penalties to deter fraudulent financial reporting.