



Workplace Whistleblower

SEC Issues Near Record-Breaking Whistleblower Award

By Cliff Fonstein and Meredith-Anne Berger

On June 9, 2016, the Securities and Exchange Commission announced it awarded over \$17 million to an ex-employee of a financial services firm. The SEC's [press release](#) touts the award as the second-highest bounty ever handed to a whistleblower, bested only by a \$30 million award from September 2014. This recent award brings the grand total of whistleblower awards to over \$85 million since the bounty program began in 2011 and adds to the already substantial sum of \$2.5 million awarded since January 2016.

Under Section 21-F of the Dodd–Frank Wall Street Reform and Consumer Protection Act, whistleblowers are entitled to a percentage of the recovery when certain criteria are satisfied. First, information “relating to a violation of the securities laws to the [SEC],” must be provided through “independent knowledge or analysis of a whistleblower.” The information must then be used in a “covered judicial action,” meaning monetary sanctions in excess of \$1 million are recovered. If those conditions are met, whistleblowers stand to recover between ten and thirty percent of the monetary sanctions imposed on the institution. The amount of the bounty awarded is in the discretion of the SEC, which considers the significance of the information to the success of the action, the degree of assistance provided by the whistleblower, and whether the award has an effect on the “programmatic interest” of the SEC in deterring further securities violations. To fund these awards, Congress established the Investor Protection Fund, which currently holds over \$400 million in its coffers. The identities of both the firm and the whistleblower remain confidential under the law.

The SEC believes that these “substantial awards” are necessary in order to “encourage other individuals with knowledge of potential federal securities law violations to make the right choice to come forward and report the wrongdoing to the SEC.” This is particularly so in the financial services industry, where individuals with access to helpful information are usually highly paid individuals for whom a less substantial bounty pales in comparison to their future earning power. In its press release, the law firm representing the whistleblower noted he chose to remain anonymous to avoid “retaliation and blacklisting.”

This award signals the SEC’s continuing efforts to encourage whistleblowers to report suspected violations of the securities laws. It is likely that the number and amount of these bounties will only increase in the months and years to come.

[Cliff Fonstein](#) is a partner and [Meredith-Anne Berger](#) is an associate in Seyfarth Shaw’s New York office. For more information, please contact your Seyfarth Shaw attorney, a member of the [Whistleblower Team](#), Cliff Fonstein at cfonstein@seyfarth.com or Meredith-Anne Berger at mberger@seyfarth.com.

www.seyfarth.com

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