

One Minute Memo®



SEC's \$14 Million Whistleblower Reward Likely to Lure More Tipsters

By Christopher Robertson and Megan Poonolly

Potential tipsters have fresh incentive to come forward thanks to the U.S. Securities and Exchange Commission's latest multi-million dollar whistleblower reward. On Tuesday, October 1, the SEC announced that it had awarded an unprecedented \$14 million to an anonymous whistleblower. According to the SEC, the individual's information led to an SEC enforcement action that "recovered substantial investor funds" less than six months after the SEC received the tip.¹ However, the SEC did not provide any other details about the case.

The multi-million dollar bounty was awarded by the SEC's Office of the Whistleblower, which was established in 2011 under the Dodd-Frank Act to reward "high-quality original information that results in an SEC enforcement action with sanctions exceeding \$1 million." Prior to Tuesday's announcement, the SEC had only paid out whistleblower awards on two previous occasions. In August 2012, the SEC paid a whistleblower approximately \$50,000. A year later, in August and September 2013, the SEC rewarded three whistleblowers with more than \$25,000 for their work in a case involving a sham hedge fund. The SEC expects the total payout to those individuals to exceed \$125,000 once all sanctions are collected in that case.

The SEC's announcement of this multi-million dollar payout is likely to breathe renewed life into the whistleblower program and encourage more tipsters to come forward, especially in light of the SEC's clear intent on preserving the anonymity of its whistleblowers. As a result, it is likely that the number of SEC enforcement actions will also rise. As pending SEC actions wrap up and new whistleblower awards are announced, companies should ensure that they have implemented appropriate compliance and reporting mechanisms. In addition, if employee tipsters do come forward, companies should ensure that those employees are treated consistently and are not retaliated against in any manner. With appropriate planning, companies can take steps to ensure they are not caught in the web of increased enforcement activity and incentivized tipsters seeking to cash out.²

Christopher Robertson is a partner in Seyfarth's Boston office and is co-chair of the firm's Whistleblower Team. *Megan Poonolly* is an associate in firm's Atlanta office. If you would like further information, please contact your Seyfarth attorney, any member of the firm's Whistleblower Team, Mr. Robertson at crobertson@seyfarth.com or Ms. Poonolly at mpoonolly@seyfarth.com.

¹ See U.S. Securities and Exchange Commission, "SEC Awards More than \$14 Million to Whistleblower," available at <http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370539854258#.Uk1q9YakqF0>

² For more information on how to deal with common situations involving whistleblowers, see Seyfarth's Workplace Whistleblower series, which is available at <http://www.seyfarth.com/Workplace-Whistleblower>.

www.seyfarth.com

Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)