

Commodity Futures Trading Commission Office of Public Affairs

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Q & A – Final Regulations on Whistleblower Incentives and Protections

What is the goal of the final regulations?

The final regulations promulgate rules to implement whistleblower incentives and protections of Section 748 to establish a whistleblower program that enables the Commission to pay an award, under regulations prescribed by the Commission and subject to certain limitations, to an eligible whistleblower who voluntarily provides the Commission with original information about a violation of the Commodity Exchange Act that leads to the successful enforcement of a Commission covered judicial or administrative action, or related action.

How do the final regulations differ from the proposed regulations?

The final regulations are substantially similar to the proposed regulations. In response to comment letters, the Commission has included provisions to incentivize internal reporting by whistleblowers. The Commission has also made minor changes to the final regulations to ensure consistency and promote harmonization with the Securities and Exchange Commission's final regulations and whistleblower program.

What are the general outlines of the whistleblower program?

The final regulations generally provide that, subject to a certain conditions and eligibility thresholds, the Commission will pay an award to a whistleblower who voluntarily provides the Commission with original information about violations of the Commodity Exchange Act. Among other things, the final regulations prescribe the following:

- The original information must be derived from the whistleblower's independent knowledge and not known to the Commission from any other source, unless the whistleblower is the original source;
- There are exclusions for original information submitted by persons with legal compliance, audit, supervisory or governance responsibilities;
- A whistleblower must comply with stated procedures for submitting information;
- The whistleblower's voluntary submission must lead to the successful resolution of a Commission covered judicial or administrative action or successful enforcement of a related action;
- A covered judicial or administrative action is any such judicial or administrative action brought by the Commission whose successful resolution results in total monetary sanctions exceeding \$1,000,000;
- The whistleblower award will be based upon the amount collected of the monetary sanctions imposed in either the Commission covered judicial or administrative action, or the related action;
- The total amount of an award granted by the Commission to one or more whistleblowers shall equal between 10 and 30 percent of the monetary sanctions collected in either the Commission covered judicial action or administrative action, or the related action;
- The determination of the amount of the award will be in the Commission's discretion and based upon certain criteria:
- Those who many not receive an award include employees of certain listed government, law enforcement and regulatory agencies; a person convicted of a criminal violation related to the underlying judicial or

- administrative action; a person who submits information that is based on facts underlying a covered action already submitted by another whistleblower; and any whistleblower who fails to submit information to the Commission in the form the Commission requests.
- A whistleblower will not collect an award if he knowingly and willfully makes any false, fictitious, or fraudulent representation to the Commission or another authority in connection with a related action.

What sort of protections do the final regulations provide to whistleblowers?

The final regulations prohibit a whistleblower's employer from engaging in retaliation against a whistleblower regarding any terms and conditions of employment because a whistleblower has provided information to the Commission, assisted in the investigation in any judicial or administrative action of the Commission based upon information the whistleblower has provided to the Commission.

Are the final regulations in effect today?

No. The final regulations become effective 60 days after publication in the Federal Register.