
Annual Report on Whistleblower Incentives and Protection Program

As Required by Section 23 of the Commodity Exchange Act, entitled Commodity
Whistleblower Incentives and Protection



This is a Report of the Staff of the
U.S. Commodity Futures Trading Commission

October 2011

ANNUAL REPORT ON WHISTLEBLOWER PROGRAM

As Required by Section 23(g)(5) of the Commodity Exchange Act

I. INTRODUCTION

The staff of the U.S. Commodity Futures Trading Commission (“Commission”) is providing this report pursuant to Section 23 of the Commodity Exchange Act (CEA), 7 U.S.C. § 26. Section 748 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“the Dodd-Frank Act” or “Act”) amended the CEA by adding Section 23, entitled “Commodity Whistleblower Incentives and Protection.”¹ Among other things, Section 23 establishes a whistleblower program that requires the Commission to pay an award, under regulations prescribed by the Commission and subject to certain limitations, to eligible whistleblowers who voluntarily provide the Commission with original information about a violation of the CEA that leads to the successful enforcement of a covered judicial or administrative action, or a related action. The Commission’s whistleblower awards are to equal, in the aggregate amount, at least 10 but not more than 30 percent of the monetary sanctions actually collected in the Commission’s action or a related action.

Section 23(g)(5) of the CEA requires the Commission to submit an annual report to the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives on the whistleblower award program, including:

- a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;
- the balance of the Fund at the beginning of the preceding fiscal year;
- customer education initiatives that were funded by the Fund during the preceding fiscal year;

¹ Pub. L. No. 111-203, § 748, 124 Stat 1841 (2010).

- the amounts deposited into or credited to the Fund during the preceding fiscal year;
- the amount of earnings on investments of amounts in the Fund during the preceding fiscal year;
- the amount paid from the Fund during the preceding fiscal year to whistleblowers;
- the amount paid from the Fund during the preceding fiscal year for customer education initiatives;
- the balance of the Fund at the end of the preceding fiscal year; and
- a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis.

This report covers the period July 21, 2010 (the date of enactment of the Dodd-Frank Act) through September 30, 2011.

II. IMPLEMENTATION OF THE WHISTLEBLOWER INCENTIVE AND PROTECTION PROGRAM

A. Commission Regulations

Section 23 of the CEA provides that whistleblower awards shall be paid under regulations prescribed by the Commission. Thus, an important prerequisite to implementation of the whistleblower award program is the issuance of rules and regulations describing its scope and procedures. The Commission issued final rules implementing Section 23 of the CEA on August 25, 2011.² These rules became effective on October 24, 2011.

B. Establishment of Whistleblower Office

The Commission's Office of the Executive Director is in the process of establishing a Whistleblower Office. The Commission has posted a vacancy announcement for a Senior Officer to serve as head of the office and is in the process of evaluating applicants, with a

² Whistleblower Incentives and Protection, 76 Fed. Reg. 53172 (Aug. 25, 2011) (to be codified at 17 C.F.R. pt. 165).

selection expected in the near future. Staffing of the Whistleblower Office will proceed after the head of the office is selected.

C. Complaints and Awards

Section 23(g)(5) of the CEA provides that the report to Congress shall include a description of the number of whistleblower awards granted and the types of cases in which the awards were granted during the preceding fiscal year. Although the Commission has received tips and complaints from persons identifying themselves as whistleblowers under the Dodd-Frank Act following the date of enactment of the Act, the predicate for an award to any whistleblower (in addition to compliance with the Commission's implementing regulations) is that the information provided by the whistleblower led to the successful enforcement by the Commission of an action resulting in the imposition of more than \$1 million in total monetary sanctions. See 7 U.S.C. § 26(a)(1). As of September 30, 2011, the Commission had not completed any actions based on information provided by a whistleblower under the Act. Accordingly, the Commission did not pay any whistleblower awards pursuant to Section 23 of the CEA during the period from July 21, 2010 through September 30, 2011.

D. Customer Education Initiatives

The Commission will undertake and maintain customer education initiatives through an Office of Consumer Outreach, which the Commission is in the process of establishing. Accordingly, the Commission did not pay any amount from the Fund for customer education initiatives during the period from July 21, 2010 through September 30, 2011.

The Commission plans to be proactive in this area. It will sponsor outreach efforts targeted at various groups, such as high school and college students, military personnel, senior citizens, and others as their needs are identified. The Commission also will be actively involved with ongoing financial literacy efforts, such as those undertaken by the Department of the

Treasury, consumer banking regulators and securities regulators, as well as self-regulatory organizations. In addition, due to the unprecedented number of Ponzi scams affecting the American public, as evidenced by the record number of cases brought by the cases Commission in the past year, the Commission will utilize resources to engage in a campaign to educate consumers as to how to protect themselves against this fraudulent activity. This initiative will include, but not be limited to, a promotional educational publication that details Ponzi scams, lists red flags of fraud, and an investors' checklist for consumers to utilize prior to investing. The Commission will make these preventative efforts a top priority.

III. CUSTOMER PROTECTION FUND

Section 748 of the Dodd-Frank Act established the Commodity Futures Trading Commission Customer Protection Fund ("Fund") to provide funding for the Commission's whistleblower award program. See 7 U.S.C. § 26(g)(1). In addition, the Fund will be used to finance customer education initiatives. See 7 U.S.C. § 26(g)(2)(B).

As of September 30, 2011, the Fund was partially funded, with an ending balance of \$23,755,000:

Balance of the Fund at beginning of the period commencing July 21, 2010	\$0
Amounts deposited into or credited to Fund during period July 21, 2010 through September 30, 2011	\$23,755,000
Amount of earnings on investments during the period	\$0
Amount paid from Fund during the period to whistleblowers and on education initiatives	\$0
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Balance of Fund as of September 30, 2011	<u>\$23,755,000</u>

Attached as an Appendix to this report are the audited financial statements for the Fund, including a balance sheet, a statement of changes in net position, a statement of budgetary resources, and a supplementary cash flow analysis schedule.