



# Commodity Futures Trading Commission

## Office of Public Affairs

Three Lafayette Centre

1155 21st Street, NW

Washington, DC 20581

[www.cftc.gov](http://www.cftc.gov)

## Notice of Proposed Rulemaking on Whistleblower Incentives and Protection

The Commodity Futures Trading Commission (CFTC) announced the publication in the Federal Register of a Notice of Proposed Rulemaking concerning commodity whistleblower incentives and protection under the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

**On July 21, 2010, the Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Among other things, section 748 of the Dodd-Frank Act amended the Commodity Exchange Act to provide whistleblower incentives and protection, and finance customer education initiatives.**

In section 748 of the Dodd-Frank Act, Congress amended the CEA by adding section 23, which directs the Commission to issue final rules implementing whistleblower incentives and protections. Specifically, section 748 requires the Commission to pay awards to whistleblowers who are individuals that provide original information to the Commission, which leads to successful enforcement of a Commission action that results in monetary sanctions exceeding \$1,000,000. The amount of the award, as determined by the Commission, will be between 10 and 30 percent of sanctions collected in either the Commission's action or a related action that is based upon the original information provided by the whistleblower.

### Determining whistleblower awards

The Commission is directed to make a determination of the amount of an award or denial of award dependent upon certain criteria. The Commission may exercise discretion in granting an award based upon the significance of the information, degree of assistance provided in support of a covered judicial or administrative action, programmatic interest, and any other criteria other than the balance of the *Fund*. An award shall be denied to certain government employees and others who are statutorily ineligible.

A whistleblower may appeal to the appropriate U.S. Circuit Courts of Appeal the Commission's award determination, including its determinations as to whom an award is made, the amount of an award, or the denial of an award.

### Whistleblower award eligibility

Whistleblowers may receive an award based upon violations that occurred prior to the date of enactment of the Dodd-Frank Act (July 21, 2010).

Whistleblowers who submit original information after the date of enactment of the Dodd-Frank Act but before these proposed rules become effective, will also be eligible for an award provided they comply with the Commission's procedures within one hundred and twenty (120) days of the rules' effective date.

A whistleblower who has submitted information after the effective date of section 748 may have a private cause of action for employment retaliation of whistleblower activities. Ineligibility to receive a whistleblower award from the Commission award does not preclude application of anti-retaliation protections.

## Effective date

Section 748 will be effective no later than July 16, 2011.

**On November XX, 2010 the Commission issued a Notice of Proposed Rulemaking to encourage comments to address specifically enumerated questions concerning the statutory provisions and any other rules the Commission should consider under the rulemaking authority of Section 748.**

The comment period closes on [insert 60 days from publication in FR].