



# Commodity Futures Trading Commission

## Office of Public Affairs

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## Notice of Proposed Rulemaking Q & A

### What is the goal of the proposal?

The Notice of Proposed Rulemaking seeks comments on the statutory provisions of Section 748 of Dodd-Frank as well as whether the Commission should 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 eligible whistleblowers who voluntarily provide 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.

### What are the practices prescribed and prohibited by the statute for which the Commission seeks comment?

The statute prescribes:

- A. the Commission must pay awards, subject to certain conditions, to whistleblowers who voluntarily provide the Commission with original information about violations of the Commodity Exchange Act;
- B. that for a whistleblower to be eligible for an award, a whistleblower must submit original information that is derived from the whistleblower's independent knowledge that is not known to the Commission from any other source, unless the whistleblower is the original source;
- C. that there are exclusions for original information submitted by persons with legal compliance, audit, supervisory or governance responsibilities;
- D. the original information submitted by the whistleblower must be a voluntary submission or voluntarily submitted;
- E. as a prerequisite for consideration of an award, a whistleblower must comport with the Commission's procedures for submitting original information;
- F. 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
- G. 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.
- H. 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;
- I. the total amount of an award granted by the Commission to one or more whistleblowers shall equal to between 10 and 30 percent of the amount of monetary sanctions that have been collected in either the Commission covered judicial action or administrative action, or the related action.
- J. the determination of the amount of the award will be in the Commission's discretion and based upon certain criteria.

- K. that no whistleblower will collect an award if that person who is, or was, an employee, officer or member of an appropriate regulatory agency, the Department of Justice, a registered entity, a registered futures association, a self regulatory organization under Section 3(a) of the Securities Exchange Act of 1934, a law enforcement organization, a person convicted of a criminal violation related to an underlying judicial or administrative action for which the whistleblower could receive an award, a whistleblower 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.

The statute prohibits:

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.

### **Is the Commission proposing additional rules?**

Yes, the Commission is proposing additional rules and asks persons commenting to respond to a series of questions concerning those rules.

### **Are the statutory provisions in effect today?**

No. The statutory provisions become effective 270 days after the enactment of Dodd-Frank.

### **Are commenters required to respond to all of the proposed questions?**

No, persons commenting may comment on any or all of the questions posed in the NOPR.