



New Figures Confirm That Dodd-Frank Whistleblower Tips Are Pouring Into The SEC

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A senior official of the Securities and Exchange Commission (“SEC”) has confirmed what many observers expected to occur in the wake of the Dodd-Frank Act: the potentially enormous financial rewards offered to whistleblowers in return for information about suspected wrongdoing are generating a deluge of tips to the SEC. According to a recent report, the chief of the SEC’s Office of Market Intelligence revealed in an interview with *Law360* that the SEC has been receiving an average of seven whistleblower tips per day -- with roughly two to three worthy of investigation -- since the Dodd-Frank whistleblower program began.

The Dodd-Frank whistleblower program authorizes the SEC and Commodity Futures Trading Commission (“CFTC”) to pay cash rewards for original information that leads to a judicial or administrative action resulting in a recovery exceeding \$1 million. Under Dodd-Frank, the whistleblower reward can range from ten to 30 percent of the penalty recovered in a judicial or administrative action resulting in penalties exceeding \$1 million. A key condition is that the tip is “derived from the independent knowledge or analysis of the whistleblower” and was not previously known to the government. The SEC and CFTC have discretion to decide the exact amount of the award based on a number of factors including the “significance” of the information and the level of assistance provided by the whistleblower. Because the “significance” of the information in part drives the amount of a reward, the act incentivizes individuals to disclose the most serious conduct about which they have information. Dodd-Frank enables whistleblowers to report misconduct under the cloak of anonymity by reporting tips through legal counsel and not disclosing their identities unless and until it has been confirmed that they will receive an award.

While not surprising given the financial incentive and protections from retaliation offered to whistleblowers under the Dodd-Frank Act, these latest Dodd-Frank whistleblower figures are another sign that a new era of heightened corporate whistleblowing has arrived. While it is too soon to know, this wave of tips could lead to an increase in resources at the SEC assigned to evaluate and investigate this incoming information. These figures are also a reminder that corporate legal and compliance departments should consider measures to further encourage employees to report suspected misconduct through internal compliance channels as well as promptly investigate all tips reported internally. That way, companies can maximize the opportunity to remediate and consider self-reporting any potential wrongdoing before a Dodd-Frank whistleblower contacts the government.

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