

# How Whistleblowers Can Get Awards for Reporting Money Laundering or Sanctions Violations: A Whistleblower Lawyer's Guide to the Anti-Money Laundering Whistleblower Program

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To strengthen the enforcement of [anti-money laundering \(AML\) laws](#) and [Bank Secrecy Act \(BSA\) regulations](#), Congress included in the Anti-Money Laundering Act of 2020 (AMLA) a robust whistleblower reward program. The [AMLA whistleblower rewards program](#) requires the Department of the Treasury ([Treasury](#)) to pay awards to whistleblowers who voluntarily provide original information leading to successful enforcement actions for AML violations.

Recently Congress strengthened the AML whistleblower rewards law by enacting the [Anti-Money Laundering Whistleblower Improvement Act](#), which 1) establishes a minimum award of 10% of collected monetary sanctions; 2) creates an AML and counter-terrorism financing fund from which whistleblower awards can be paid (from sanctions collected in successful enforcement actions stemming from whistleblower disclosures); and 3) expands the AMLA whistleblower law to reward disclosures of sanctions violations, i.e., violations of the International Emergency Economic Powers Act, sections 5 and 12 of the Trading With the Enemy Act, or the Foreign Narcotics Kingpin Designation Act. Congress included the [Anti-Money Laundering Whistleblower Improvement Act](#) in the [Consolidated Appropriations Act of 2023](#), which President Biden signed into law on December 23, 2022.

The AMLA whistleblower law will likely be a game changer in AML and sanctions enforcement and will strengthen national security by combating the illicit finance that is pivotal to the operation of terrorist groups and organized criminal enterprises. Fines in AML enforcement actions can be substantial and therefore AML whistleblowers have a strong incentive to report violations of the Bank Secrecy Act. Recently [Danske Bank agreed to pay more than \\$2 billion](#) as part of an integrated, global resolution with the SEC, the Department of Justice, the United States Attorney's Office for the Southern District of New York, and Denmark's Special Crime Unit. According to DOJ and SEC charges, Danske Bank misled investors about its AML compliance program in its Estonian branch, failed to disclose the risks posed by the program's significant deficiencies, failed to comply with its AML and Know-Your-Customer procedures, and defrauded U.S. banks regarding Danske Bank

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Estonia's customers and anti-money laundering controls to facilitate access to the U.S. financial system for Danske Bank Estonia's high-risk customers.

This post provides an overview of the [AMLA whistleblower rewards program](#).

## What is the Anti-Money Laundering Whistleblower Program?

The AMLA whistleblower law incentivizes whistleblowers to **report money laundering** by requiring the Department of Treasury to pay an award of **10% to 30% of collected monetary sanctions** that it recovers in a judicial or administrative action brought under the Bank Secrecy Act that results in sanctions exceeding \$1,000,000. The [Anti-Money Laundering Whistleblower Improvement Act](#) expands the AMLA whistleblower program to encompass whistleblowing about violations of U.S. sanctions, *i.e.*, violations of these statutes:

- the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);
- sections 5 and 12 of the Trading With the Enemy Act (50 U.S.C. 4305; 4312); or
- the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.).

To qualify for an award, the whistleblower must voluntarily provide original information to their employer, Treasury, or the Department of Justice.

The AMLA whistleblower reward program is modeled on the highly successful [SEC whistleblower program](#). Since its inception, the SEC whistleblower program has enabled the SEC to uncover significant investment fraud schemes and halt ongoing fraud. Since 2011, the SEC has paid more than \$1.3 billion in awards to whistleblowers for providing information that [led to successful enforcement actions](#). According to a [recent report of the SEC Office of the Whistleblower](#), “[e]nforcement actions brought using information from meritorious whistleblowers have resulted in orders for more than **\$6.3 billion in total monetary sanctions**, including more than \$4.0 billion in disgorgement of ill-gotten gains and interest, of which more than **\$1.5 billion** has been, or is scheduled to be, **returned to harmed investors**.”

## Who is Eligible for an AMLA Whistleblower Reward?

In contrast to the [SEC whistleblower program eligibility rules](#), the [AMLA whistleblower reward program](#) does not impose limitations on award eligibility for whistleblowers who gain information through the performance of compliance or audit job duties. Indeed, the AMLA whistleblower law expressly authorizes compliance personnel to obtain AML whistleblower awards in that the term “whistleblower” includes an individual who provides information relating to a violation “as part of the job duties of the individual.” Non-U.S. citizens are eligible for AMLA whistleblower awards.

## Can a Whistleblower Report Money Laundering or Sanctions Violations Anonymously?

If represented by an attorney, an **AMLA whistleblower** may submit a tip anonymously to the Financial Crimes Enforcement Network (FinCEN). The AMLA whistleblower rewards law requires Treasury and Justice to take steps to protect the confidentiality of AML whistleblower submissions.

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Any officer or employee of either agency must not disclose information provided by a whistleblower “which could reasonably be expected to reveal the identity of a whistleblower,” except where the agency is required to disclose the information to a defendant in a public proceeding instituted by the agency and in accordance with the Privacy Act.

## **How Does the AMLA Whistleblower Reward Program Determine the Amount of an AMLA Whistleblower Reward?**

To determine the amount of an AMLA whistleblower award, Treasury will consider:

- the significance of the information provided by the whistleblower to the success of the covered money laundering judicial or administrative action;
- the degree of assistance provided by the whistleblower and any legal representative;
- the programmatic interest of Treasury in deterring the particular violations that the whistleblower disclosed; and
- additional relevant factors that Treasury will promulgate, which will likely echo the [factors that the SEC employs to determine the amount of an SEC whistleblower award](#).

## **What Monetary Sanctions Qualify for an AMLA Whistleblower Reward?**

The monetary sanctions collected in any judicial or administrative action that can qualify for an AMLA whistleblower award include any monies, including penalties, disgorgement, and interest ordered to be paid, but excludes (i) forfeiture; (ii) restitution; and (iii) any victim compensation payment.

An AMLA whistleblower may also qualify for a “related action” award, which is any judicial or administrative action brought by (i) any appropriate federal authority; (ii) a state attorney general in connection with any criminal investigation; or (iii) any appropriate state regulatory authority, when the action is based on the original information provided by the whistleblower and led to the successful enforcement of the action by Treasury or Justice. Treasury can reduce the amount of an award in a related action in which the whistleblower received a payment from another whistleblower award program, e.g., where the whistleblower receives an [SEC whistleblower award for reporting a broker-dealer’s failure to file suspicious activity reports](#) or failure to maintain an anti-money laundering compliance program.

## **How Will FinCEN Pay AMLA Whistleblower Awards?**

The [Anti-Money Laundering Whistleblower Improvement Act](#) established the Financial Integrity Fund to pay whistleblower awards. Monetary sanctions collected by DOJ or Treasury in any judicial or administrative action stemming from an AMLA whistleblower disclosure are deposited into the fund until the balance of the Fund exceeds \$300,000,000.

## **Are AMLA Whistleblowers Protected Against Retaliation?**

[Section 6314\(g\) of the AMLA](#) creates a private right of action for whistleblowers who have suffered retaliation for disclosing potential Bank Secrecy Act violations to Treasury or Justice, a federal

regulatory or law enforcement agency, Congress, or a person with supervisory authority over the whistleblower. It also protects a whistleblower assisting in any investigation or judicial or administrative action of Treasury or Justice based on or related to the information that the whistleblower disclosed to the government.

A prevailing whistleblower in an AMLA whistleblower retaliation claim can obtain reinstatement, double back pay with interest, uncapped compensatory damages, reasonable attorney fees, any other appropriate remedy with respect to the conduct that is the subject of the action.

In contrast to [Dodd-Frank's whistleblower protection provision](#), AMLA-protected whistleblowing does not require a threshold showing that the whistleblower reported a potential BSA violation to the appropriate regulatory agency. Instead, internal whistleblowing alone is protected. Moreover, the whistleblower need not meet the AMLA requirements for award eligibility to be protected under the anti-retaliation provision.

Similar to the [SOX whistleblower protection law](#), the AMLA prohibits a wide range of retaliatory acts, including directly or indirectly discharging, demoting, suspending, threatening, blacklisting, harassing, or in any other manner discriminating against a whistleblower in the terms and conditions of employment due to the employee's protected whistleblowing.

[AMLA retaliation claims](#) must be filed initially with the Occupational Safety and Health Administration, and 180 days after filing, the whistleblower can remove the claim to federal court and try the case before a jury.

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National Law Review, Volumess XII, Number 361

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