CFTC Report Highlights Whistleblowers Tips to Other Regulators Qualify for Awards

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The high number of whistleblower tips demonstrates the effectiveness of the CFTC program.
The Commodities Futures Trading Commission (“CFTC” or “Commission”) submitted its annual report to Congress on October 29, 2021. In the 2021 fiscal year, the CFTC issued 65 final orders addressing 74 whistleblower applications, of which 6 were granted awarding multiple whistleblowers. These awards were paid to individuals who voluntarily provided original information or analyses to successful enforcement actions.

The report did not provide much information about the whistleblower awards it granted in FY2021. However, it did note that four awards were to whistleblowers who first provided other authorities with information. Whistleblowers who first report violations to another regulatory agency, like the Securities and Exchange Commission or the National Futures Association, can qualify for an award from the CFTC. These whistleblowers must later file a TCR with the CFTC to establish their status as CFTC whistleblowers. Each of these whistleblowers “provided critical evidence that the Division of Enforcement used in its investigation and/or subsequent litigation against the wrongdoers.” The other two awards went to whistleblowers who provided information that was specific, credible, and timely. One also provided significant and ongoing assistance in the investigation.

The report states that since the inception of the Whistleblower Program, the CFTC has issued 31 orders granting a total of more than $123 million in awards. The total sanctions ordered in CFTC actions associated with those awards exceeded the $1 billion level in 2021. After FY2021 ended on September 30, 2021, the CFTC issued a record $200 million whistleblower award.

The CFTC continued to receive a high number of whistleblower tips in 2021. The number of tips was down slightly from last year at 961, but significantly higher than the years prior to 2020. In the 2020 Report, the Commission noted a 126% increase from the previous year with a record of 1030 tips. The Commission also received 189 supplements from whistleblowers to previously submitted TCRs.

According to the CFTC, it received tips and complaints regarding “insider trading, position limit violations, reporting violations, false statements to the government, failure to supervise, recordkeeping violations, registration violations, illegal swap dealer business conduct, wash trading, solicitation fraud, misappropriation, various other types of fraud, use of deceptive or manipulative devices in trading, spoofing, and other forms of disruptive trading or market manipulation.”

The report also states the CFTC also received 159 separate non-whistleblower tips and complaints, mostly via email. These tips came from individuals who did not use the "Tip, Complaint, or Referral" form. This form is required to qualify for a whistleblower award. Whistleblowers should seek the counsel of experienced SEC whistleblower attorneys to assist them in the process of submitting a TCR form. This will ensure they take the proper steps to remain anonymous and qualify for a whistleblower award.

The CFTC whistleblower reward program was established by the 2010 Dodd-Frank Act to protect the U.S. economy and the American public. The program pays monetary awards to qui tam whistleblowers who provide information that leads the CFTC to bring a successful enforcement action exceeding one million dollars for violations of the Commodity Exchange Act.