FREQUENTLY ASKED QUESTIONS

The CFTC's Whistleblower Program – which was created by the Dodd-Frank Act – allows for the payment of monetary awards to eligible whistleblowers, and provides anti-retaliation protections for whistleblowers.*

Program Overview

- What is the CFTC Whistleblower Program?
- How does the CFTC Whistleblower Program differ from that of the Securities and Exchange Commission (SEC)?
- How does someone become eligible for an award?
- What does it mean to provide information "voluntarily"?
- What is "original information"?
- What rights do I have if my employer tries to stop me from providing a tip to the CFTC or retaliates against me after coming forward with information about a suspected violation?
- Where do the funds for monetary awards come from?

Submit a Whistleblower Tip

- Who can be a whistleblower eligible for an award?
- How could my information lead to a successful enforcement action?
- I work at a company with an internal compliance process. Do I have to report violations of the Commodity Exchange Act internally first to be eligible for a whistleblower award?
- How do I submit a whistleblower tip to the CFTC?
- Can I submit my whistleblower tip anonymously?
- Will the CFTC keep my identity confidential?
- Will you update me on the status of my TCR?
- May I submit additional information after I have filed a TCR?

Orders Eligible for an Award

- I have already submitted a tip to the CFTC. Why have I not heard back from the Commission?
- Are awards granted in connection with only certain orders?
- Why has the Whistleblower Office posted an Amended Notice of Covered Action? Do I need to file a new WB-APP?

Apply for an Award

- How much money could I receive as a whistleblower?
- How do I apply for an award?
- How will I know when to apply for an award?
- I provided information to the CFTC before the enactment of the Dodd-Frank Act on July 21, 2010. Am I eligible for an award?
- I work for a Futures Commission Merchant. Am I eligible for an award?
- What constitutes a "Related Action"?
- May I apply for an award anonymously?
- Should I expect to receive updates on the status of my award claim?
- What happens if the wrongdoer does not pay all of the sanctions ordered?

Preliminary Determinations

- What factors does the CFTC consider in determining the amount of the award?
- Can I request to review a copy of the materials considered in making the Preliminary Determination?
- Can I request reconsideration of the Preliminary Determination?
- What happens if I waive my request for the record or for reconsideration?

Final Orders/Award Determinations

- Can I appeal an award decision?
- If an award has been ordered, when should I expect payment to be made?

Program Overview

What is the CFTC Whistleblower Program?

The Commission's whistleblower program was created by the Dodd-Frank Act, and it provides monetary awards to persons who voluntarily report violations of the

Commodity Exchange Act (CEA) if the information leads the Commission to bring an action, or if the information significantly contributes to the success of a Commission action, that results in more than $1 million in monetary sanctions. The Commission can also pay awards based on monetary sanctions collected by other authorities in actions that are related to a successful CFTC action and are based on information provided by a CFTC whistleblower. The Dodd-Frank whistleblower provisions also prohibit any action taken to impede an individual from communicating directly with the Commission's staff about a possible violation of the CEA, as well as retaliation by employers against employees who come forward with information about possible violations. The CFTC has authority under the CEA to enforce the anti-retaliation provisions against offending employers. The Dodd-Frank whistleblower provisions also include certain confidentiality protections to whistleblowers.

How does the CFTC Whistleblower Program differ from that of the Securities and Exchange Commission (SEC)?

Following the amendments to the whistleblower rules that became effective July 31, 2017, the CFTC's award claims review process largely mirrors that of the SEC's Whistleblower Program. For example, as at the SEC, the CFTC's Claims Review Staff has responsibility for issuing a Preliminary Determination, setting forth a preliminary assessment as to whether an award claim should be granted or denied. As under the SEC's program, a whistleblower has an opportunity to request to view the record and contest the Preliminary Determination before the Commission issues a Final Determination. Rules 165.7(e)-(l); 165.15(a)(2)

How does someone become eligible for an award?

To be eligible for a whistleblower award, an individual (or group of individuals) must first submit a Form TCR – Tip, Complaint, or Referral. The Form TCR may be submitted electronically via the website, or by fax or mail.

What does it mean to provide information "voluntarily"?

To provide information voluntarily, you must give information to the Commission before the Commission sends you, your lawyer, or your employer a request, inquiry or demand for the information. You also cannot provide information to the Commission "voluntarily" if you have already received a request, inquiry, or demand from Congress, another regulatory or enforcement agency or a self-regulatory organization (such as the National Futures Association). On the other hand, if you provided information to any such organization before receiving a request, inquiry, or demand, your submission to the Commission will also be considered voluntary. Rule 165.2(o)

What is "original information"?

"Original information" is information not already known to the Commission that is derived from (i) your independent knowledge (information in your possession that is not generally known or available to the public), or (ii) your independent analysis (your examination and evaluation of information that may be publicly available but which reveals information that is not generally known). Also, if the Commission received the same information previously from someone else, your information will not be considered original information unless you can show that you were the "original source" of the information. Rule 165.2(k)-(l)

If you are not sure whether the information that you intend to submit falls within these categories, you should describe such information rather than produce it with your Form TCR.

Please note that, unless certain limited exceptions apply, "independent knowledge" does not include communications that are subject to the attorney-client privilege and information obtained in connection with the legal representation of a client. Rule 165.2(g)(2)-(3)

What rights do I have if my employer tries to stop me from providing a tip to the CFTC or retaliates against me after coming forward with information about a suspected violation?

Employers may not take any action to impede you from communicating directly with the Commission's staff about possible violations of the Commodity Exchange Act, including by enforcing, or threatening to enforce, a confidentiality agreement or predispute arbitration agreement with respect to such communications. Nor may employers discharge, demote, suspend, harass, or in any way discriminate against you because of any lawful act done by you in providing information to the Commission under the whistleblower program or assisting the Commission in any investigation or proceeding based on the information submitted. If you believe that your employer has wrongfully retaliated against you, you may bring a private action in federal court against your employer, within two years of the employer's retaliatory act. If you prevail, you may be entitled to reinstatement, back pay, litigation costs, expert witness fees and attorney's fees. The CFTC also has authority under the CEA to bring an enforcement action against your employer for any retaliatory acts. Rules 165.19, 165.20; Whistleblower Rules, Appendix A

Other federal and state statutes may offer anti-retaliation protections in addition to those provided by the Commodity Exchange Act. If you have questions about these other statutes, please contact an attorney.

Where do the funds for monetary awards come from?
All whistleblower awards are paid from the CFTC Customer Protection Fund established by Congress and financed entirely through monetary sanctions paid to the CFTC by violators of the CEA.

Submit a Whistleblower Tip

Who can be a whistleblower eligible for an award?
A whistleblower eligible for an award can be any individual who sends the Commission a Form TCR containing information about a potential violation of the Commodity Exchange Act. Examples range from a corporate officer or insider, to a trader or market observer, to an investor or fraud victim. A company or another entity is not eligible to be a whistleblower. Rules 165.2(p), 165.3

However, not every person who files a TCR will be eligible for an award. To be eligible, a whistleblower must "voluntarily" provide the Commission with "original information" about a violation. Those terms are explained in these FAQs. Also, certain persons – including certain government and self-regulatory personnel, and persons convicted of a crime related to the conduct at issue in the whistleblower matter – are ineligible for an award. Rules 165.5(a), 165.6

How could my information lead to a successful enforcement action?
Your information could lead the Commission to open a new examination or investigation, re-open a previously closed investigation or pursue a new line of inquiry in connection with an ongoing investigation, and the Commission could bring a successful enforcement action based at least in part on the information you provided. Additionally, your information could relate to an ongoing examination or investigation and significantly contribute to the success of an enforcement action. If your information leads to a successful enforcement action you may be eligible for an award. Rule 165.2(i)

I work at a company with an internal compliance process. Do I have to report violations of the Commodity Exchange Act internally first to be eligible for a whistleblower award?
You do not have to report internally to be eligible for a whistleblower award, and you may submit your information directly to the Commission at any time.

If you choose to report internally first, your information will be deemed to be submitted to the Commission on the date you reported it internally if you also report

it to the Commission within 180 days of that date. Under these circumstances, the Commission will consider your place in line for determining whether your information is "original information" to be the date you reported it internally. In addition, if your company conducts an investigation and reports the results to the Commission, you may benefit from the information that the company's investigation reveals when the Commission considers whether you should receive an award and what percentage you should receive. Rule 165.2(i)(3)

Also, the fact that you reported your information internally, and the extent to which you helped your company uncover a violation, will be considered as factors that may increase the size of any award that you are eligible to receive. Rule 165.9(b)(4)

Please refer to the Things To Know section of this site for more information.

How do I submit a whistleblower tip to the CFTC?
To become eligible for a whistleblower award, you must complete and submit a Form TCR electronically, by mail, or by facsimile.

You may file a Form TCR electronically by clicking on the Submit a Tip button at the top of the page, or by clicking on the "File a Tip or Complaint" button on the right-hand side of the CFTC's homepage, www.cftc.gov, and selecting the option for the Whistleblower Program.

You may also mail or fax a printed Form TCR to:

Commodity Futures Trading Commission
Whistleblower Office
1155 21st Street, NW
Washington, DC 20581

Fax: (202) 418-5975

Please refer to the Things To Know section of this site for more information.

Can I submit my whistleblower tip anonymously?
Yes. You can file your Form TCR anonymously, with or without a lawyer's help. Because the Commission may need to contact you for more information, and because ongoing cooperation while the Commission is investigating a matter is a factor in determining any award amount, you should provide some means of contact, such as an email address or telephone number. Also, there are detailed requirements for making an award claim anonymously. Rules 165.3(c), 165.4(b), 165.7(c)

If you have any questions about filing anonymously, the Commission strongly encourages you to contact the Whistleblower Office by sending an email to whistleblower@cftc.gov or calling the Whistleblower Hotline at 1-866-873-5675 **before** you file.

Will the CFTC keep my identity confidential?
Whether or not you seek anonymity, the Commission is committed to protecting your identity. For example, the Commission will not disclose your identity in response to requests under the Freedom of Information Act. As a general rule, the Commission treats information learned during the course of an investigation – including the identity of sources – as non-public and confidential.

There are, however, limits on the Commission's ability to shield your identity. For example, in an administrative or court proceeding, the Commission may be required to produce documents or other information which would reveal your identity. In addition, as part of the Commission's ongoing investigatory responsibilities, the Commission may use information you have provided during the course of an investigation. In appropriate circumstances, the Commission may also provide information, subject to confidentiality requirements, to other governmental or regulatory entities. Rule 165.4

Will you update me on the status of my TCR?
The Whistleblower Office will not affirmatively provide updates on the status of your complaint. You may contact the Whistleblower Office with any inquiries by sending an email to whistleblower@cftc.gov.

May I submit additional information after I have filed a TCR?
Yes. If you wish to provide us with additional information, you may do so via email, mail or fax. Please include your confirmation number (TCR number) with any additional information you submit.

Orders Eligible for an Award

I have already submitted a tip to the CFTC. Why have I not heard back from the Commission?
Please understand that if you submitted information to the Commission, the Commission investigative staff may, or may not, contact you. Any inquiry conducted by the Commission as a result of any information you provide is confidential. The fact that the Commission may investigate a firm or person generally will not be

disclosed until such time as a public proceeding is brought either before the Commission or in federal court.

Even if you have not been contacted by the Commission investigative staff, the Commission still encourages you to sign up for the Commission's and Whistleblower Program's Email Subscription Service to receive information updates, including Notices of Covered Actions that may be related to your submission. Links for these services can be found at the top of this webpage and the Commission's homepage at www.cftc.gov.

Are awards granted in connection with only certain orders?
Yes, only certain orders are eligible for payout of an award. One category is orders from Commission enforcement actions that result in monetary sanctions over $1 million, known as "Covered Actions." For those orders, the Commission posts Notices of Covered Actions on the Whistleblower Program website that identifies the orders and indicates the due date for award applications related to the order. The second category is orders obtained by other authorities in actions that are related to a successful Commission action and are based on information provided by a CFTC whistleblower, known as "Related Actions." The Commission does not post notices about Related Actions.

Why has the Whistleblower Office posted an Amended Notice of Covered Action? Do I need to file a new WB-APP?
When a Commission proceeding arises out of the same nucleus of operative facts as an earlier proceeding, the Commission will treat the later proceeding and the earlier proceeding as a single Covered Action. Rule 165.2(a)(1). The Whistleblower Office may post an amended Notice of Covered Action (“NCA”), with a new application deadline, for any whistleblowers who did not apply in response to the original NCA, but who believe, based on the resolution of the later proceeding, that they assisted in the Covered Action. All applicants for either the original NCA or the amended NCA will be considered for an award on the entire Covered Action.

Apply for an Award

How much money could I receive as a whistleblower?
Provided that you meet all of the program's eligibility criteria, the Commission will pay a total award amount equal to between 10% and 30% of the amount of the monetary sanctions collected in either the CFTC action or a Related Action. In cases

involving multiple whistleblowers, the total award amount will still not exceed 30%.

How do I apply for an award?
You must complete a Form WB-APP and submit it electronically, mail it to the address below or fax it to the number below:

Commodity Futures Trading Commission
Whistleblower Office
1155 21st Street, NW
Washington, DC 20581

Fax: (202) 418-5975

No other form of submission will be accepted.

For covered CFTC actions, you must file the form no later than 90 days after the Commission posts a "Notice of Covered Action." For Related Actions related to a Covered Action, you must file the form no later than within 90 days after the later of (1) a judgment in the Related Action and (2) the posting of the Notice of Covered Action. Rule 165.7. Where judgment in a Related Action comes after a timely application for the Covered Action, you will need to file an additional Form WB-APP for the Related Action. Rule 165.7

How will I know when to apply for an award?
When the CFTC obtains a final judgment that contains more than $1 million in monetary sanctions, the Commission will post a "Notice of Covered Action" on the Notices of Covered Actions page.

The Commission does not notify individuals directly about Notices of Covered Action, so you should monitor the webpage periodically. You can also sign up for the Whistleblower Program's Email Subscription Service to receive alerts to new Notices of Covered Action. The Commission does not provide or post any notification for Related Actions.

I provided information to the CFTC before the enactment of the Dodd-Frank Act on July 21, 2010. Am I eligible for an award?
No. The Dodd-Frank Act and our Whistleblower Rules make awards available only in connection with information first submitted to the CFTC after July 21, 2010. Commodity Exchange Act § 23(k) and Rule 165.2(k)(4)

I work for a Futures Commission Merchant. Am I eligible for an award?
In many cases, yes. Rule 165.6(a) generally outlines those whistleblowers who are ineligible for an award. Only whistleblowers who work for a "Registered Entity," as

that term is defined in the CEA, are precluded from becoming whistleblowers by virtue of their employment, pursuant to Rule 165.6(a)(1). That term does not include a Futures Commission Merchant. See 7 U.S.C. § 1a(29) (2012). A whistleblower who works for a Futures Commission Merchant may therefore be eligible for an award, assuming he or she otherwise meets the eligibility criteria set out in the Whistleblower Rules, including the requirement of Rule 165.2(g)(4) that information about a potential violation not have been learned by the whistleblower who is an officer, director, trustee or partner in connection with the entity's processes for identifying, reporting, and addressing possible violations of law.

What constitutes a "Related Action"?

A Related Action is a successful judicial or administrative action brought by certain other specified entities that is based on the original information provided by a whistleblower that led to the successful enforcement of a CFTC action. Those entities may include the U.S. Department of Justice (for both civil and criminal matters); other federal departments or agencies, like the Federal Energy Regulatory Commission; state criminal or appropriate civil agencies; registered entities, registered futures associations, or self-regulatory organizations, like the National Futures Association; and foreign futures authorities. The Related Action must be based on the same original information that the whistleblower voluntarily submitted to the Commission and led to a successful resolution of the Commission judicial or administrative action. Rule 165.11, 165.2(m). In other words, if your information did not lead to a CFTC action, then you will not be eligible for an award on a Related Action.

May I apply for an award anonymously?

Yes. You can file for an award claim anonymously but in order to do so, you must be represented by counsel. Your identity will need to be verified in a form and manner that is acceptable to the Commission prior to the payment of any award. Rules 165.3(c), 165.4(b), 165.7(c)

Should I expect to receive updates on the status of my award claim?

No. All Form WB-APP applications are reviewed in due course and as resources allow. If the Whistleblower Office needs additional information related to your award claim, we will contact you.

What happens if the wrongdoer does not pay all of the sanctions ordered?

Where sanctions collected in a Covered Action or Related Action are less than the full amount ordered, any whistleblower award will amount to the percentage determined by the Commission multiplied by the sanctions collected. Sanctions

collected in a Covered Action or Related Action are only used for purposes of calculating awards to whistleblowers. The dollars that actually go to paying those awards come from the CFTC Customer Protection Fund and do not reduce the amounts otherwise ordered to go to harmed investors. A whistleblower remains eligible for a pro rata award payout, even if the Commission is unable to collect the full amount of sanctions ordered. If at a later point in time the Commission collects more money under a Covered Action, then the whistleblower will get the same percentage of the additional amount collected.

Preliminary Determinations

What factors does the CFTC consider in determining the amount of the award?

The Whistleblower Rules require that the Commission consider many factors in determining the amount of an award based on the unique facts and circumstances of each case. Rule 165.9.

The Commission may increase the award percentage based on:

1. the significance of the information you provided the Commission to the success of a CFTC action or Related Action;

2. the degree of assistance you provided;

3. the Commission's law enforcement interest in deterring violations of the commodities laws by making awards to whistleblowers who provide information that leads to the successful enforcement of these laws; and/or

4. whether, and the extent to which, you participated in your company's internal compliance systems.

The Commission may reduce the amount of an award based on:

1. whether you were involved in, or culpable for, the conduct you reported;

2. whether you unreasonably delayed reporting a violation to us; and/or

3. whether you interfered with your company's internal compliance and reporting systems.

Can I request to review a copy of the materials considered in making the Preliminary Determination?

Yes. The materials considered by the CFTC are referred to as the "record". You have 30 days from the date of the Preliminary Determination to request that the Whistleblower Office make the record available. You should submit your request in writing to the Whistleblower Office by email, mail, or fax:

Commodity Futures Trading Commission
Whistleblower Office
1155 21st Street, NW
Washington, DC 20581

Fax: (202) 418-5975

Email: whistleblower@cftc.gov

The Whistleblower Office will then make the record available to you. The specific items that make up the record are listed in Whistleblower Rule 165.10. These may include any documents or materials received or obtained by the Whistleblower Office to assist the Commission in resolving a whistleblower's award claim pertaining to a Related Action, as long as the entity bringing the Related Action has authorized the Commission to share the information with the whistleblower. Note that the record does not include any pre-decisional or internal deliberative process materials that are prepared to assist the CFTC in deciding a claim. In order to provide the record to a claimant and preserve confidentiality, the Whistleblower Office will redact any information that would identify any other whistleblowers. In addition, you will need to sign an agreement saying you will keep the record materials confidential and not share them with others. Rules 165.7(g), 165.10, 165.13(b)

Can I request reconsideration of the Preliminary Determination?

Yes. You have 60 days from the date of the Preliminary Determination (or, if you have requested the record, from the date you receive a copy of those materials) to submit a request for reconsideration of the Preliminary Determination. That request must be in writing and is limited to 10 pages. You must submit your request to the Whistleblower Office by email, mail, or fax:

Commodity Futures Trading Commission
Whistleblower Office
1155 21st Street, NW
Washington, DC 20581

Fax: (202) 418-5975

Email: whistleblower@cftc.gov

Rule 165.7(g)(2)(ii)

What happens if I waive my request for the record or for reconsideration?
If you notify the Whistleblower Office in writing that you waive your right to request the record and/or for reconsideration, you may speed up the review process if you are the only applicant in the award determination. However, there is no guarantee that your waiver will lead to earlier issuance of a Final Order if there are other claimants, given that those other claimants may not waive their rights regarding the record and reconsideration.

Final Orders/Award Determinations

Can I appeal an award decision?
Yes. You can appeal a Final Order of the Commission regarding your award claim to an appropriate federal court of appeals no later than 30 days after the Final Order is issued. Rule 165.13

If an award has been ordered, when should I expect payment to be made?
Once 30 days have passed following the issuance of the Final Order, if there have been no appeals, the Commission may proceed with payment of awards to any whistleblower(s). If sanctions are still being collected from the defendant(s) in the underlying action(s), payment may be delayed or be made based on the amount of sanctions collected up to that point in time.

* The answers to these Frequently Asked Questions represent the views of the staff of the CFTC's Whistleblower Office. They are not CFTC rules or regulations, and the Commission has neither approved nor disapproved them. These answers are short general summaries of certain key features of the CFTC Whistleblower Program and do not purport to be complete or comprehensive. For detailed information about the program, please read **Section 23 of the Commodity Exchange Act (7 U.S.C. § 26)** and the **Whistleblower Rules (17 C.F.R. § 165)**. Last updated March 30, 2018.