

FINAL ORDER- THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF
THE COMMISSION ON JULY 11, 2023
PURSUANT TO RULE 21F-10(f) OF THE SECURITIES EXCHANGE ACT OF 1934

Notice of Covered Action [REDACTED]
[REDACTED]

Notice of Covered Action [REDACTED]
[REDACTED]

Notice of Covered Action [REDACTED]
[REDACTED]

PRELIMINARY DETERMINATIONS OF THE CLAIMS REVIEW STAFF

In response to the above-referenced Notices of Covered Actions, the Securities and Exchange Commission (“Commission”) received whistleblower award claims from [REDACTED] (“Claimant”) for the following covered actions:

Covered Action [REDACTED]

[REDACTED] (the “[REDACTED] Action”).

Covered Action [REDACTED]

[REDACTED] (the “[REDACTED] Action”).

Covered Action [REDACTED]

[REDACTED] collectively with the [REDACTED] and [REDACTED] Actions, the “Covered Actions”).

Pursuant to Section 21F of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 21F-10 promulgated thereunder, the Claims Review Staff has evaluated the claims in accordance with the criteria set forth in Rules 21F-1 through 21F-18. The Claims Review Staff sets forth its Preliminary Determinations for the award claims as follows.

The Claims Review Staff has preliminarily determined to recommend that the Commission deny Claimant’s claims for the Covered Actions for failure to comply with Rule 21F-10(a) and (b)(1), which provides that a claimant’s WB-APP must be received by the Office of the Whistleblower (“OWB”) within 90 calendar days of the date of the Notice of Covered Action to be considered for an award. Claimant submitted his/her WB-APPs nearly four years late for the [REDACTED] Action, more than two-and-a-half years late for the [REDACTED] Action, and nearly ten months late for the [REDACTED] Action.

Claimant contends that he/she only recently learned that his/her information might have contributed to the Covered Actions, and that the Commission should therefore invoke its general exemptive authority under Section 36(a) of the Exchange Act and waive Claimant’s non-compliance with Rule 21F-10(a) and (b)(1). Section 36(a) of the Exchange Act provides the Commission with broad authority to exempt any person from any provision of the Exchange Act

FINAL ORDER- THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF
THE COMMISSION ON JULY 11, 2023
PURSUANT TO RULE 21F-10(f) OF THE SECURITIES EXCHANGE ACT OF 1934

Notice of Covered Action [REDACTED]

Notice of Covered Action [REDACTED]

Notice of Covered Action [REDACTED]

or any rule or regulation thereunder to the extent that such exemption is (i) necessary or appropriate in the public interest and (ii) consistent with the protection of investors. In analyzing whether the standard for a Section 36(a) exemption has been met, the Commission has considered (1) whether the unique circumstances of a particular matter raise considerations and arguments substantially different from those which were carefully considered at the rulemaking proceeding, and (2) whether application of the rule in a particular matter would result in hardship, unfairness, or inequity.

The circumstances here do not warrant a Section 36(a) exemption. The Commission has observed that a “potential claimant’s responsibility includes the obligation to regularly monitor the Commission’s web page for NoCA postings and to properly calculate the deadline for filing an award claim.”¹ In light of the strong interest in the finality of the adjudication of whistleblower claims,² the record suggests no unique circumstances³ that would warrant waiving compliance with the WB-APP deadline here.⁴

By: Claims Review Staff

Date: April 24, 2023

¹ *Order Determining Whistleblower Award Claim*, Exchange Act Release No. 34-91805 at 3 (May 10, 2021).

² *Order Determining Whistleblower Award Claims*, Exchange Act Release No. 34-96765 at 4 (Jan. 30, 2023).

³ Nor does the record suggest any “extraordinary circumstances” that would warrant the Commission waiving compliance with the submission deadline under Rule 21F-8(a). The Commission has explained that the “extraordinary circumstances” exception is “narrowly construed” and requires an untimely claimant to show that “the reason for the failure to timely file was beyond the claimant’s control.” *Order Determining Whistleblower Award Claim*, Exchange Act Release No. 96765 (Jan. 30, 2023). Claimant was represented by counsel at all relevant times and does not identify any impediment to his/her reporting that would rise to the level of extraordinary circumstances.

⁴ Claimant’s claim for the [REDACTED] Action also fails because Claimant’s information did not lead to the successful enforcement of the [REDACTED] Action. Claimant’s information did not cause Enforcement staff to open the investigation that gave rise to the [REDACTED] Action or to inquire concerning different conduct, *see* Rule 21F-4(c)(1), and it did not significantly contribute to the charges that the Commission brought in that action, *see* Rule 21F-4(c)(2). Nor did Claimant report his/her information internally in circumstances that would satisfy Rule 21F-4(c)(3).