

IMPLEMENTATION OF
SECTION 21F
OF THE SECURITIES EXCHANGE ACT OF 1934

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OUTLINE OF SUBJECT AREAS

- A. Enforcement of Anti-Retaliation Law
 - 1. SEC Rules on Retaliation
 - a. Establishment of Violation
 - b. Investigations
 - c. Regulatory Requirements (Posting Notice)
 - d. Enforcement Actions
 - 2. Cooperation with Department of Labor
 - a. Memorandum of Understanding
 - b. Testimony
 - c. Amicus
 - d. Direct participation (intervention)
 - 3. Cooperation with Other Agencies
 - a. State law enforcement
 - b. Department of Justice
 - c. Commodities Futures Board
- B. NRC Precedent
 - 1. Regulatory Authority and Actions
 - 2. Notices of Violation
 - 3. Rules (including notice posting)
 - 4. MOU with DOL
 - 5. Policy Statement (published in *Federal Register*)

- C. Cooperation with other agencies on Sealed or confidential *qui tams* that may impact SEC
 - 1. False Claims Act
 - 2. IRS Whistleblower
 - 3. State *qui tam*
- D. Regulatory Response to the Obstruction of Justice Law
 - 1. Ensure Obstruction cases are properly referred
 - 2. Work with DOJ on possible criminal enforcement/include these prosecutions as part of the SEC law enforcement program
 - 3. Ensure that companies understand the full scope of the Obstruction prohibition (i.e. all retaliation against whistleblowers – not just securities law violations)
 - 4. Change in corporate culture
- E. Implementation of Effective *qui tam* rules
 - 1. Threshold for recovery based on amount of fine/sanction, not amount actually recovered
 - 2. Clearly and broadly define “related action”
 - 3. Do not make filing procedures burdensome, permit an opportunity to correct (i.e. notice of deficiency with leave to correct filing)
 - 4. Clearly explain who is disqualified

5. Set clear and enforceable time-lines
 - a. Acknowledgement of Receipt Letter (with statement re: requirements for proper claim)
 - b. Time for initial ruling – set specific deadlines
 - c. Strict time limit on final ruling based on date that order/sanction/settlement is issued for which the reward shall be based
 - d. Constructive denial if time limit is not met, permitting judicial review on basis of the record created by relator
 6. If immunity is granted *after* employee voluntarily contacts SEC, then information provided to SEC after the grant of immunity should be defined as voluntary
 7. Develop decision-making process that is effective and guards against violations of due process
 8. Consider an internal appeal process
- F. Clear procedures for requesting immunity
- G. Corporate culture survey
- H. Compliance and Corporate Culture
 1. Further enforce Audit Committee rules (15 U.S.C. 78f(m)(4))
 2. Review and adopt (as applicable) FAR compliance rules
- I. Appoint Director with experience in whistleblower matters who will have credibility with whistleblower community