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December 17, 2010

BY ELECTRONIC MAIL

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Proposed Rules for Implementing the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934 (File No. S7-33-10)

Dear Ms. Murphy:

This letter is submitted by Apache Corporation; Cardinal Health, Inc.; The Goodyear Tire & Rubber Company; Hewlett-Packard Company; Merck & Co., Inc.; Microsoft Corporation; Newmont Mining Corporation; Procter & Gamble Co.; TRW Automotive Holdings Corp.; and United Technologies Corporation (collectively, the "Commenting Entities") in response to the request of the Securities and Exchange Commission for comments regarding the Commission's proposed rules for implementing the whistleblower provisions of Section 21F of the Securities Exchange Act of 1934 (the "Proposed Rules"), issued on November 3, 2010.[1]

The Commenting Entities represent a cross-section of industries within the United States. All are focused on robust corporate compliance and have a strong desire not to see any

[1] Proposed Rules for Implementing the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934, Release No. 34-63237 (Nov. 3, 2010), 75 Fed. Reg. 70488 (Nov. 17, 2010) ("Proposing Release").

degradation in the effectiveness of their compliance programs. As a result, there is keen appreciation by the Commenting Entities for the Commission's desire to balance implementation of the new whistleblower program with the continued utility of internal corporate compliance programs.[2]

The Commission, the Department of Justice, and other federal agencies have for years stressed the importance of vigilant internal corporate compliance. And for good reason. To be sure, internal corporate compliance programs promote compliance with the federal securities laws, but they also do much more.[3] They are essential sources of information for companies about misconduct that is not securities-related.[4] They are the means for communication of company compliance policies. They enforce ethical behavior. And they provide mechanisms for employees to raise concerns about compliance issues, and to make sure those concerns are addressed.

The Commission recognizes the importance of internal compliance programs.[5] The Commission also has acknowledged, however, that the prospect of an enormous monetary recovery under Section 21F may entice a whistleblower to bypass internal compliance programs in favor of reporting directly to the Commission.[6] As a safeguard, the Proposed Rules include provisions designed "not to discourage" whistleblowers from reporting information to an internal compliance program before making a submission to the Commission.[7]

We believe that stronger measures are necessary – measures that will require, rather than merely not discourage, the use of effective internal reporting mechanisms. Without this internal reporting requirement, Section 21F will surely reduce the effectiveness of existing corporate compliance measures.

The Proposed Rules threaten to undermine not only internal reporting mechanisms; they also impose significant – and, we submit, unnecessary – new pressure on companies to self-report all allegations of violations of the federal securities laws, regardless of the merit of those allegations. We recognize that the Commission has a strong desire to protect its truth-seeking function. The Commission understandably wants to maximize the number of "high-quality tips" it receives under the whistleblower program.[8] But encouraging overreporting by companies is not the answer. Indeed, if anything, overreporting is likely to burden the Commission with low-quality tips. That burden can be avoided if the Proposed Rules are modified. The modifications

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[2] *Id.* at 4.

[3] *Id.* at 33-34.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.* at 4.

[8] *Id.* at 5.

should eliminate the pressure on companies to report all allegations even if the quality of the information is low. And, they should require employees to make internal reports, so that a corporate compliance function can investigate and remediate them appropriately.

Accordingly, we submit that the final rules issued by the Commission should better reflect the importance and benefits of strong corporate compliance programs. We further believe that recalibrating the balance currently struck in the Proposed Rules can be done without unduly affecting the Section 21F whistleblower program.

PROPOSED MODIFICATIONS TO THE PROPOSED RULES

We suggest that the Proposed Rules be modified as follows:

1. Internal Reporting

- *Require potential whistleblowers to utilize internal reporting procedures as a condition of eligibility for an award, unless (a) the employer does not have an effective internal corporate compliance program[9] or (b) the employee can show that extraordinary circumstances should excuse such reporting.*

- *Extend the "look back" period, during which the date of a whistleblower's internal report can count as the date of the whistleblower's report to the Commission, from 90 days to 180 days.*

2. Self-Reporting

- *Allow legal, compliance, audit, supervisory, or governance personnel – or those who obtain information through them – to become whistleblowers only if they*

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[9] Internal compliance programs that are considered to be effective typically include, among other things: multiple avenues for reporting, including at least one avenue that allows for anonymous reporting; protection against retaliation; and, as appropriate, access to the board of directors by those with operational responsibility for such programs. Various well-known imperatives guide or compel companies in structuring effective internal compliance programs. *See, e.g.*, U.S. Sentencing Comm'n, *Guidelines Manual*, Ch. 8, intro. comment (Nov. 2010) (providing substantial credit to organizations that have effective compliance and ethics programs as defined under the Guidelines Manual § 8B2.1); U.S. Dep't of Justice, Principles of Federal Prosecution of Business Organizations, § 9-28.800 (urging prosecutors to consider, in determining the effectiveness of such programs, whether internal audit functions are conducted at a level sufficient to ensure their independence and accuracy, and whether the information and reporting system is reasonably designed to provide management and directors with timely and accurate information); Sarbanes-Oxley Act of 2002 § 301, 15 U.S.C. § 78j-1(m)(4) (2006) (requiring a listed issuer to have procedures for dealing with complaints about accounting, internal accounting controls, and auditing matters, and to institute means for employees to make anonymous submissions on those subjects).

"report upward" within the company, and the company fails to investigate and remediate (which would include consideration of whether to self-report) within a reasonable period of time.[10]

3. Other Issues

- **Wrongdoers as Whistleblowers**
  - *Add a qualitative evaluation of a whistleblower's wrongdoing to the factors the Commission must consider in determining the amount of an award.*
- **Whistleblowers as Government Agents**
  - *Limit the Commission's communication with a whistleblower to the information and documents the whistleblower possessed at the time of first contact with the Commission.*
- **Attorney-Client Communications**
  - *Clarify that neither a non-lawyer nor a lawyer can qualify as a whistleblower by using information obtained through a communication that was subject to the attorney-client privilege.*
  - *State explicitly that the Commission will not seek to obtain privileged information in its communications with a whistleblower.*
  - *State that the Commission may not argue that a whistleblower's communication of privileged information or documents effects a waiver.*
- **Retaliation**
  - *State that protection against retaliation begins when a whistleblower submits a statement made under penalty of perjury to the Commission, or makes a good-faith report through an internal compliance program.*
  - *Clarify that an employer is permitted to take otherwise appropriate adverse employment actions against a whistleblower employee provided they are not based on whistleblowing.*

[10] Of course, if the company proceeds in bad faith as set forth in the Proposed Rules, any legal, compliance, audit, supervisory, or governance personnel – or those who obtain information through them – would be free to receive awards as whistleblowers. *See* Proposing Release at 129-30.

DISCUSSION

I. INTERNAL REPORTING

- **Proposed Changes**

1. When the employer has an effective internal compliance program, a whistleblower should be required to utilize internal procedures before going to the Commission, unless the whistleblower can show that extraordinary circumstances should excuse such reporting;[11]

2. The "look back" period during which the date of a whistleblower's internal report can count as the date of the whistleblower's report to the Commission should be extended from 90 days to 180 days.

- **Rationale**

  – *Compelling reasons exist to condition the availability of a whistleblower award on the use of internal compliance programs*

As the Commission acknowledges, "[c]orporate compliance programs play a role in preventing and detecting securities violations that could harm investors."[12] But, as the Commission also recognizes, the role of corporate compliance programs extends well beyond ensuring compliance with the federal securities laws. Indeed, corporations today are guided by expansive obligations and expectations in devising internal compliance programs that are effective across a host of areas.[13] Accordingly, the Commission's authority to implement the whistleblower provisions affords a unique opportunity for the Commission to confirm the importance of such programs, encourage their use, and reinforce their well-planned design and operation.

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[11] Other proposals to encourage internal reporting that the Commission may be considering – such as limiting awards to 10 percent unless the whistleblower makes an internal report, or explicitly including internal reporting in the Rules as a favorable factor to be considered by the Commission in determining an award – although improvements to the Proposed Rules, are not sufficient to encourage whistleblowers to avail themselves of internal reporting mechanisms. Even if the recovery of a whistleblower who failed to report internally were limited to 10 percent, the monetary incentives are still so substantial that internal reporting would become the exception rather than the norm. Thus, in order to ensure that internal reporting mechanisms are used with appropriate frequency, we believe that the Commission should require the use of such mechanisms, absent extraordinary circumstances.

[12] *Id.* at 51.

[13] *See supra* note 9.

The Commission acknowledges throughout the Proposing Release that it does not intend for whistleblowers to bypass internal processes.[14] That objective makes complete sense. The Proposed Rules, however, appear to be at cross-purposes with the Commission's goal. In fact, under the Proposed Rules, it seems unlikely that many whistleblowers – or whistleblowers' counsel – would choose to utilize internal processes instead of reporting directly to the Commission.

Reporting directly to the Commission has many advantages for a whistleblower under the Proposed Rules, including maximizing the chance of making a "voluntary" submission of information, before there has been any regulatory inquiry; providing "original" information not previously known to the Commission; and providing "independent" knowledge or analysis not related to an internal inquiry. Reporting internally, in contrast, risks losing these advantages, and it increases the chance that the whistleblower's award will be reduced because the company acts quickly to put a stop to any improper conduct.

Accordingly, the Proposed Rules will surely result in whistleblowers ignoring internal programs in favor of direct reports to the Commission; that result is not likely to be changed by the Commission's limited attempts to encourage internal reports by whistleblowers. Moreover, that result seems almost completely and oddly juxtaposed with the Commission's well-founded statement that when corporate compliance programs are not used, "our system of securities regulation will be less effective."[15]

Furthermore, we note that if a whistleblower employee bypasses the company's internal reporting mechanisms, the company is left ignorant of the reported problem. Sometimes, to be sure, the Commission may inform the company of the whistleblower's complaint. But *ad hoc* determinations by the Commission to share information are not a substitute for prompt reports by employees of matters that may need to be investigated, remediated, or reported. Indeed, information reported to the Commission, but not the company, could well relate to an issue that the company is required by statute or regulation to investigate and remedy – responsibilities the company obviously cannot fulfill if it is not informed of the matter in the first instance.

Ignorance on the part of the company may also mean that the underlying misconduct continues for a longer period of time. Without information, the company will be unable to put an immediate stop to the reported conduct. In addition, the Commission will not likely be in a position to terminate the conduct, or at least not as quickly as the company could terminate it.[16]

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[14] *See, e.g.*, Proposing Release at 4, 34.

[15] *Id.* at 51-52.

[16] We recognize that allowing the conduct to continue may benefit the whistleblower by increasing the monetary sanction on which the whistleblower award is based. But, of course, prompt investigation and remediation of improper conduct is a central public policy goal, as well as a goal for internal compliance programs.

When a company's employees abandon the internal compliance program in favor of reporting to the Commission, the company may face difficulties with a whistleblower employee in other contexts as well. As soon as the employee begins to seek a large cash award, the employee is likely to have strongly divided loyalties. For this reason, such employees are unlikely to be satisfactory participants in internal investigations and remedies. It is highly likely that neither they nor their attorneys will be as committed to the effectiveness of the internal investigation as they are to their goal of obtaining a whistleblower award from the Commission, including a desire to maximize their cash award.

In addition, an internal investigation may be compromised by the company's ignorance of the whistleblower's originally reported information, and, perhaps, the whistleblowing employee's unwillingness to participate wholeheartedly in an investigation that does not promise a financial reward. In circumstances where the whistleblower has chosen not to report through the company's compliance program, at a minimum the company will not have all available information to assess a situation. Moreover, providing interviewees or other employees with information during an internal investigation brings with it the risk of creating a new whistleblower and compromising the company's internal investigation.[17] To the extent that an internal investigation is handicapped, so, too, are the truth-seeking objectives of the Commission and the Department of Justice, both of which frequently rely on the fact-finding of internal investigations.

The Commission will not increase the quality of tips it receives by providing incentives for all complaints to be made directly to it. A large percentage of complaints alleging potential securities violations will likely prove unfounded.[18] And a whistleblowing structure that encourages a corporation to self-report every allegation to the Commission, for fear that an individual whistleblower will approach the Commission first, is not an appropriate use of either corporate or Commission resources.

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[17] The Proposed Rules exclude information learned in an investigation from the definition of "original information." *Id.* at 129-30. But the exclusion does not go far enough. If the company does not disclose the relevant information to the Commission "within a reasonable time," the exclusion falls away, and whistleblower awards become available. *Id.* As we discuss in Section II, this exclusion should be modified.

[18] The experience of the Commenting Entities is that the vast majority of complaints to their respective corporate compliance programs relate to human resource issues. Very few such complaints actually include substantive allegations relating to potential violations of the federal securities laws, and those that do so frequently turn out to be meritless. We note that an unintended consequence of the whistleblower program may be that its mere existence will entice employees who are unfamiliar with the program to make a direct report to the Commission of information that is wholly unrelated to the federal securities laws. In that circumstance, the company will be in the dark even as to allegations in which the Commission clearly has no interest. With the imposition of an internal reporting requirement, however, the Commission can best ensure that companies will continue to be in a position to address such allegations.

In sum, there is clearly value to be gained by requiring whistleblowers to use internal compliance processes in tandem with Section 21F, instead of bypassing them.

— *Requiring an internal report need not disadvantage the whistleblower*

Modifying the Proposed Rules to require internal reporting in the first instance need not greatly alter the Section 21F whistleblower program as a whole. Most internal compliance programs possess the hallmarks of effectiveness.[19] If a particular program is not effective, or if the employee can otherwise show that extraordinary circumstances should excuse the requirement of internal reporting, the employee need not make such a report. Moreover, with an appropriate "look back" period, employees can use the date of the report to the employer as the date of the report to the Commission, preserving their claims to be first to report the relevant information.

— *The "look back" period should be extended*

An extended "look back" period would allow a company a more reasonable, though still fairly brief, period of time to investigate the whistleblower's report. It would also provide more protection to a whistleblower who reports through an internal compliance program before going to the Commission.

II. SELF-REPORTING

- **Proposed Change**

The Proposed Rules allow legal, compliance, audit, supervisory, and governance personnel – or those who obtain information through them – to become whistleblowers if the company does not self-report their information to the Commission within a reasonable period of time.[20] In allowing such personnel to become whistleblowers in some circumstances, the Commission does not intend to encourage company personnel to seek personal benefits by "front running" at the expense of "internal investigations and similar processes."[21] The Proposed Rules are designed instead to "permit such persons to act as whistleblowers in circumstances where the company knows about material misconduct but has not taken appropriate steps to respond."[22]

The Proposed Rules should be revised to allow the company to pursue its "internal investigations and similar processes" and take "appropriate steps to respond" before legal, compliance, audit, supervisory, and governance personnel – or those who obtain information through them – are permitted to become whistleblowers. For that purpose, such personnel

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[19] *See supra* note 9.

[20] Proposing Release at 129-30.

[21] *Id.* at 26.

[22] *Id.*

should be required to "report upward" within the company before they can qualify as whistleblowers. Similarly, the triggering event allowing such personnel to become whistleblowers should not be a company's failure to self-report, but its failure to investigate and remediate (which includes considering whether to self-report) within a reasonable period of time. We submit that such investigation and remediation is a more appropriate litmus test of whether the company has taken "appropriate steps to respond."

- **Rationale**

Because the Proposed Rules allow legal, compliance, audit, supervisory, and governance personnel – or those who obtain information through them – to become whistleblowers if the company does not self-report to the Commission within a reasonable period of time, they force a company to self-report to the Commission in virtually every instance. Whether or not a company considers the information to be "material," in order to ensure that such personnel will not become whistleblowers, the company must self-report. Self-reporting, however, has not been, and should not become, the inevitable conclusion to every internal investigation. Historically, a company has exercised its judgment in determining the proper course to take concerning the results of an internal investigation. We submit that this exercise of judgment serves the interests of the Commission. It will help to avoid a situation where companies inundate the Commission with unsubstantiated allegations, and it will continue to allow for efficient and legally sound judgments by companies as to what events require self-reporting to the Commission.[23]

Moreover, self-reporting every piece of information given to legal, compliance, audit, supervisory, or governance personnel is contrary to the carefully calibrated standards concerning companies' disclosures to the Commission that are imposed by a multitude of statutes and regulations.[24]

The Commission recognizes that it would be inappropriate to allow legal, compliance, audit, supervisory, or governance personnel – or those who obtain information through them – to circumvent a company's investigative and similar processes. In order to allow a company to pursue its compliance and reporting processes, the Proposed Rules should be revised to require that such personnel "report upward" within the company and may qualify as whistleblowers only if the corporation did not investigate and remediate within a reasonable period of time.

The Proposed Rules reflect concern for the vital functions that legal, compliance, audit, supervisory, or governance personnel perform, but they do not consider the trust the company must have in such personnel if those vital functions are to be effectively performed. We submit that requiring such personnel – or those who obtain information through them – to "report

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[23] When considering what events require self-reporting, companies should also be permitted to continue to follow the Commission's guidance on how companies' cooperation will be evaluated.

[24] *See, e.g.*, Securities Exchange Act of 1934 § 10A, 15 U.S.C. § 78j-1 (2006) (setting standards for reporting illegal acts to the Commission).

upward," and allowing them to become whistleblowers only if the company does not investigate and remediate, reflects a more appropriate balance between the need for misconduct to be revealed, and the need for critical functions to proceed without being drawn off course by the potential for personal gain by those overseeing or participating in those functions.

III. OTHER ISSUES

A. Wrongdoers as Whistleblowers

- **Proposed change**

Qualitative evaluation of a whistleblower's wrongdoing should be added to the factors the Commission must consider in determining the amount of an award.

- **Rationale**

Individuals who engage in culpable conduct are eligible to receive whistleblower awards under the Proposed Rules, which exclude only wrongdoers who are convicted of crimes related to the conduct at issue.[25] Not all wrongdoers who engage in criminal conduct are convicted; for example, the government may decide not to prosecute, or the wrongdoer may be outside the government's jurisdiction. Criminal wrongdoers who are not convicted remain eligible for awards. Civil wrongdoers also remain eligible.

Seeing wrongdoers not only evade punishment, but also receive substantial benefits, can have a damaging effect on a company's culture of compliance, to say nothing of raising public policy concerns about large awards being paid to individuals who themselves engaged in improper conduct.

The Proposed Rules already require a quantitative adjustment to a whistleblower's award when the whistleblower is a participant in the wrongdoing: Monetary sanctions paid by the whistleblower or any entity whose liability is based substantially on conduct that the whistleblower directed, planned, or initiated, are excluded from award calculations.[26]

The Proposed Rules do not, however, provide for mandatory qualitative consideration of a wrongdoer's actions and their impact on any available award. The Proposing Release states that the wrongdoer's culpability is one of the many factors the Commission *may* consider in determining the amount of the award. However, the Rules themselves should provide that, in deciding the amount of an award, the Commission *will* consider making a qualitative downward adjustment for a wrongdoer's culpability.

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[25] Proposing Release at 136.

[26] *Id.* at 149.

B. Whistleblowers as Government Agents

- **Proposed change**

The Commission's communication with a whistleblower should be limited to the information and documents the whistleblower possessed at the time of the first contact with the Commission.

- **Rationale**

The Proposed Rules allow the Commission direct access to whistleblowers, including whistleblowers still employed by the company about which they are providing information.[27] Continued contact with the Commission raises the possibility that the whistleblower will act as the Commission's agent to obtain information and documents, and perhaps even to record conversations or conduct searches, which could raise Fourth Amendment and other constitutional issues.

Accordingly, the Commission should adopt a rule (a so-called "one-bite" rule) limiting the whistleblower's submissions to the Commission to the information and documents in the possession of the whistleblower at the time of the whistleblower's first contact with the Commission.

C. Attorney-Client Communications

- **Proposed changes**

The Commission should clarify that the exclusion for information obtained in a communication subject to the attorney-client privilege is applicable to a non-lawyer as well as a lawyer. The Commission also should state explicitly that it will not seek to obtain privileged information or documents in its communications with a whistleblower, and that if the whistleblower nevertheless provides such information or documents, the Commission will not argue that the company's privilege has thereby been waived.

- **Rationale**

The Proposed Rules provide that information will not qualify as independent knowledge or analysis if it was obtained "[t]hrough a communication that was subject to the attorney-client privilege," or from someone who obtained the information in that fashion. While the Proposed Rules do not limit the exclusion to attorneys, the Proposing Release states that "this exclusion from independent knowledge or analysis *only means that an attorney cannot make a whistleblower submission on his or her own behalf* that is based upon information the attorney obtained through a privileged communication with a client."[28] The Proposed Rules should make

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[27] *Id.* at 150.

[28] *Id.* at 20-21 (emphasis added).

it clear that the exclusion applies not only to attorneys, but also to anyone who obtains information through a communication subject to the attorney-client privilege.

The Proposed Rules allow the Commission to communicate directly with whistleblowers, bypassing counsel for the entity involved.[29] This "direct access" right creates a risk that the Commission may obtain information or documents protected by the company's attorney-client privilege. Nothing in the Proposing Release or Proposed Rules suggests that the Commission will intentionally elicit privileged information or documents. To the contrary, the Commission recognizes that the attorney-client privilege furthers compliance with the federal securities laws.[30] In the interest of preserving the privilege, the Proposed Rules should state explicitly that the Commission will not seek privileged information or documents from the whistleblower. The Proposed Rules should also state explicitly that if the whistleblower nevertheless provides privileged information or documents to the Commission, the Commission will not argue that the company's attorney-client privilege has thereby been waived.

D. Retaliation

Dodd-Frank greatly expands the scope of whistleblowers' protection against retaliation, and many aspects of the new anti-retaliation regime are not yet addressed by the Proposed Rules. A full exposition of the Dodd-Frank anti-retaliation regime is beyond the scope of this letter. We do, however, submit the following in response to the Commission's general request for comment on aspects of the retaliation scheme.[31]

1. Start of protection against retaliation

- **Proposed change**

A would-be whistleblower should not be eligible for protection against retaliation until the whistleblower either submits a statement under penalty of perjury to the Commission or submits a good-faith report through an internal compliance program.

- **Rationale**

The Proposed Rules provide a would-be whistleblower with protection from retaliation as soon as he or she provides information to the Commission that relates to a potential violation of the securities laws; the individual receives this protection without needing first to satisfy the prerequisites for an award.[32]

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[29] *Id.* at 149-50.

[30] *Id.* at 20.

[31] *Id.* at 89-90.

[32] *Id.* at 124-25.

One of the requirements to qualify for an award is a statement from the would-be whistleblower that is made under penalty of perjury.[33] The requirement is designed to protect the Commission from false and misleading tips.[34]

The anti-retaliation provisions of Section 21F should not be used to protect individuals who submit false and misleading tips. Just as the Commission protects itself from false and misleading tips by requiring would-be whistleblowers to submit a statement under penalty of perjury, so, too, should such a statement be required to trigger the Section 21F protections against retaliation. Anything less threatens to allow an employee inappropriately to gain the protections of the robust anti-retaliation provisions in the statute.

In addition, we have proposed that a would-be whistleblower be required to make an internal report before going to the Commission. A whistleblower who submits a good-faith report through an internal compliance program – like a whistleblower who submits a statement under penalty of perjury to the Commission – should be entitled to the protection of the anti-retaliation provisions of Section 21F, beginning at the time of submission.

2. Adverse employment actions not based on whistleblowing

- **Proposed change**

It should be clear that otherwise appropriate adverse employment actions not based on whistleblowing are considered non-retaliatory and are permitted, and the Commission should promulgate rules to so confirm.

- **Rationale**

Whistleblowing should not become a guarantee of preferential treatment or lifetime employment. If properly motivated adverse employment actions were to be prohibited, an employer would have no recourse against an employee who did not perform adequately, or even an employee who did not perform at all.

The ability to make and act on personnel decisions is also an important factor in ensuring that other employees are aware that those who violate company policies – including ethics and compliance policies – are appropriately disciplined. Appropriate employee discipline is an important part of establishing and continuing a culture of compliance. This is especially significant here because, as discussed above, some participants in improper or even illegal activity will be eligible for awards under the Proposed Rules. Companies need to have sufficient flexibility to take adverse employment actions against employees who have engaged in wrongdoing.

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[33] *Id.* at 60.

[34] *Id.*

Rules to delineate the contours of appropriate adverse employment actions, and how the reasons for such actions can best be documented, will provide more clarity to both employers and employees.

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The Commenting Entities are sensitive to the Commission's task of implementing the whistleblower provisions of Section 21F in a manner that reflects congressional intent. We believe the comments expressed above are fully consistent with that objective and, if reflected in the final rules, will best promote the provision of high-quality tips to the Commission, while not unnecessarily degrading internal corporate compliance processes.

We thank the Commission for its time and consideration. If you require any additional information, please do not hesitate to contact our counsel at Covington & Burling LLP, Steven Fagell at (202) 662-5293 or David Martin at (202) 662-5128.

Respectfully submitted,

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