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| 1 | In other provisions of these Proposed Rules - e.g., Proposed Rule 21F-15 - we propose that whistleblowers not be paid awards based on monetary sanctions arising from their own misconduct, based on the notion that the statue is not intended to reward persons for blowing the whistle on their own misconduct. Consistent with this approach, should we define the term "whistleblower" to expressly state that it is an individual who provides information about potential violations of the securities laws "by another person"? | Yes, to reward the perpetrator for bringing his/her own improprieties to light would be a major disservice to shareholders, and would contradict the intent of Rule 21F. |
| 2 | Does Proposed Rule 21F-4(a)(1) appropriately define the circumstances when a whistleblower should be considered to have acted "voluntarily" in providing information about securities law violations to the Commission? Are there other circumstances not clearly included that should be in the rule? | N/C |
| 3 | Should the Commission exclude from the definition of "voluntarily" situations where the information was received from a whistleblower after he received a request, inquiry, or demand from a foreign regulatory authority, law enforcement organization or self-regulatory organization? Similarly, should the Commission exclude from the definition of "voluntarily" situations where the information was received from a whistleblower where the individual was under a pre-existing legal duty to report the information to a foreign regulatory authority, law enforcement organization or self-regulatory organization? | Yes to both of these questions. |
| 4 | Is it appropriate for the proposed rule to consider a request or inquiry directed to an employer to be | There is a problem with the general proposal that a "demand that is directed to an employer is also considered to be directed to employees who possess the documents or other |

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| | directed at individual employees who possess the documents or other information that is within the scope of the request? Should the class of persons who are covered by this rule be narrowed or expanded? Will the carve-out that permits such an employee to become a whistleblower if the employer fails to disclose the information the employee provided in a timely manner promote compliance with the law and the effective operation of Section 21F? | information…" The reason this poses a problem is that the Commission does not duly consider the hierarchical dynamic of the said organization. For example, the Commission could direct a demand towards the Corporate Controller at a time when relevant documents are in possession of the Accounting Supervisor, who could subsequently come forward to the Commission with relevant information. Under the general exclusion, the Accounting Supervisor's tip would be considered involuntary, even if he/she had no knowledge of the higher level inquiry made of the Corporate Controller. If the Commission finds that it is reasonable that subsequent tips come independently come from others within the company under inquiry, then the subsequent tips might be better considered "voluntary" since they are truly independent of the pre-existing SEC inquiry. |
| 5 | The standard described in Proposed Rule 21F-4(a)(1) would credit an individual with acting "voluntarily" in certain circumstances where the individual was aware of fraudulent conduct for an extended period of time, but chose not to come forward as a whistleblower until after he became aware of a governmental investigation or examination (such as by observing document requests being served on his employer or colleagues, but before he received an inquiry, request, or demand himself, assuming that he was not within the scope of an inquiry directed to his employer). Is this an appropriate result, and, if not, how should the proposed rule be modified to account for it? | We believe this standard is inconsistent with the proposed wording earlier in the same section/paragraph. An employee who becomes a whistleblower after the "house of cards" already appears to start crumbling should not be considered to have come forward voluntarily, because at such a point, his/her disclosures are more aligned with self-preservation than with thwarting corporate malfeasance. On the contrary, if the employee who comes forth is aware of fraudulent conduct, while *unaware* that an investigation has been opened is more appropriately considered to have come forward "voluntarily." |
| 6 | Is the exclusion set forth in Proposed Rule 21F-4(a)(2) for information provided pursuant to a pre-existing legal or contractual duty to report violations appropriate? Should specific circumstances where there are pre-existing duties to report violations to investigating authorities be set forth in the rule, and if so, what are they? For example, should the rule preclude submissions from all Government employees? | We believe these exclusions are appropriate for the most part, but we believe that it is necessary to differentiate internal audit personnel into at least two classes: the "rank and file" and those ultimately responsible for reporting audit findings to Management (i.e. Chief Audit Executive, Director, Senior Audit Manager, etc). Those with more responsibility or duty to report violations at the upper levels of compliance and audit departments should absolutely be excluded, however at the lower end of the responsibility spectrum, insightful staffpersons who uncover improprieties in the course of their normal work duties should not be excluded from becoming whistleblowers, because these are the most likely individuals to uncover and |

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| | | actually *understand* the nature of fraud or other irregularities. On the other hand, the Commission seems to be falsely expecting the average non-audit or non-compliance employee of a registrant to essentially develop the skepticism and investigative skills of a fraud investigator. We believe that this expectation is quite dangerous because accurately detecting and identifying financial or accounting irregularities requires an above average understanding of the artifices that companies and/or individuals can employ. The most likely to recognize such matters are those who possess academic training and/or job experience. Therefore, non-supervisor or perhaps non-manager level audit and compliance personnel (i.e. junior employees) should not be excluded. |
| 7 | Is it appropriate to include knowledge that is not direct, first-hand knowledge, but is instead learned from others, as "independent knowledge," subject only to exclusion for knowledge learned from publicly-available sources? | N/C |
| 8 | Is there a different or more specific definition of "analysis" that would better effectuate the purposes of Section 21F? | The general definition is appropriate enough as it allows for a wide variety of specific investigative steps that can lead to the same conclusion that improprieties have occurred. The Commission might want to specifically make reference to the "mosaic theory" used in the investment analysis industry, such as that defined by the CFA Institute's Standard of Practice Handbook. |
| 9 | Is it appropriate to exclude from the definition of "independent knowledge" or "independent analysis" information that is obtained through a communication that is protected by the attorney-client privilege? Are there other ways these rules should address privileged communications? For example, should other specific privileges be identified (spousal privilege, physician-patient privilege, clergy-congregant privilege, or others)? Should the exclusion apply broadly to information that is obtained through communications that are subject to any common law evidentiary privileges recognized | N/C |

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| | under the laws of any state? | |
| 10 | Is it appropriate to exclude from the definition of independent knowledge" or "independent analysis" information that is obtained through the performance of an engagement required under the securities laws by an independent public accountant, if that information relates to a violation by the engagement client or the client's directors, officers or other employees? Are there other ways that our rules should address the roles of accountants and auditors? | N/C |
| 11 | Should the exclusion for "independent knowledge" or "independent analysis" go beyond attorneys and auditors, and include other professionals who may obtain information about potential securities violations in the course of their work for clients? If so, are there appropriate ways to limit the nature or extent of the exclusion so that any recognition of relationships of professional trust does not undermine the purposes of Section 21F? | N/C |
| 12 | Apart from persons who obtain information through privileged communications, and professionals who have access to client information, are there still other categories of persons who should not be considered for whistleblower awards based upon their professional duties or the manner in which they may acquire information about potential securities violations? If such exclusions are appropriate, what limits, if any, should be placed on them in order not to undermine the purposes of Section 21F? Is the exclusion for knowledge obtained | We believe that the proposed categories for exclusion are sufficiently broad. |

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| | through violations of criminal law appropriate? | |
| 13 | Do the proposed exclusions for information obtained by a person with legal, compliance, audit, supervisory, or governance responsibilities for an entity under an expectation that the person would cause the entity to take steps to respond to the violation, and for information otherwise obtained from or through an entity's legal, compliance, audit, or similar functions strike the proper balance? Will the carve-out for situations where the entity does not disclose the information within a reasonable time promote effective self- policing functions and compliance with the law without undermining the operation of Section 21F? Should a "reasonable time" be defined in the rule and, if so, what period should be specified (e.g., three months, six months, one year)? Does this provide sufficient incentives for people to continue to utilize internal compliance processes? Are there alternative or additional provisions the Commission should consider that would promote effective self-policing and self-reporting while still being consistent with the goals and text of Section 21F? | We believe that for clarity, the Commission should consider a rule on "reasonable time" structured as "sooner of X or Y" with X and Y being defined in relation to milestones such as the 1) when the event was first known to the whistleblower, 2) when the improprieties began, 3) the most recent SEC reporting dates, etc. |
| 14 | Is the proposed exclusion for information obtained by a violation of federal or state criminal law appropriate? Should the exclusion extend to violations of the criminal laws of foreign countries? What would be the policy reasons for either extending the exclusion to violations of foreign criminal law or not? Are there any other types of criminal violations that should be included? If so, on what basis? | N/C |

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| 15 | How should our rules treat information that may be provided to us in violation of judicial or administrative orders such as protective orders in private litigation? Should we exclude from whistleblower awards persons who provide information in violation of such orders? What would be the policy reason for this proposed exclusion? | N/C |
| 16 | Is the provision that would credit individuals with providing original information to the Commission as of the date of their submission to another Governmental or regulatory authority, or to company legal, compliance, or audit personnel, appropriate? In particular, does the provision regarding the providing of information to a company's legal, compliance, or audit personnel appropriately accommodate the internal compliance process? | N/C |
| 17 | Is the 90-day deadline for submitting Forms TCR and WB-DEC to the Commission (after initially providing information about violations or potential violations to another authority or the employer's legal, compliance, or audit personnel) the appropriate timeframe? Should a longer time period apply in instances where a whistleblower believes that the company has or will proceed in bad faith? Would a 90-day deadline for submitting the TCR and WB-DEC also be appropriate in circumstances where an individual provides information to an SEC staff member? Would a shorter time frame be appropriate? Should there be different time frames for disclosures to other authorities and disclosures to an. | N/C |

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| | employer's legal, compliance or audit personnel? | |
| 18 | Should the Commission consider other ways to promote continued robust corporate compliance processes consistent with the requirements of Section 21F? If so, what alternative requirements should be adopted? Should the Commission consider a rule that, in some fashion, would require whistleblowers to utilize employer-sponsored complaint and reporting procedures? What would be the appropriate contours of such a rule, and how could it be implemented without undermining the purposes of Section 21F? Are there other incentives or processes the Commission could adopt that would promote the purposes of Section 21F while still preserving a critical role for corporate self-policing and self-reporting? | The inherent friction between an employee's willingness to come forward and do the "right thing" and the fear of reprisal even under the anti-retaliation provisions needs to be resolved by the Commission. In certain circumstances, it might be appropriate for the Commission to consider establishing a fund that would compensate certain whistleblowers who lose their jobs between the date that the complaint/tip is first made, and the date that an SEC-led investigation or action is concluded. Fear of reprisal, loss of job, loss of promotability, etc are real concerns that will serve to dissuade would-be whistleblowers from coming forward. |
| 19 | Would the proposed rules frustrate internal compliance structures and systems that many companies have established in response to Section 10A(m) of the Exchange Act, as added by Section 301 of the Sarbanes-Oxley Act of 2002, and related exchange listing standards? If so, consistent with Section 21F, how can the potential negative impact on compliance programs be minimized? | N/C |
| 20 | Is the proposed standard for when original information voluntarily provided by a whistleblower "led to" successful enforcement action appropriate? | N/C |
| 21 | In cases where the original information provided by the whistleblower caused the staff to begin looking at | N/C |

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| | conduct for the first time, should the standard also require that the whistleblower's information "significantly contributed" to a successful enforcement action?<br>a. If not, what standards should be used in the evaluation?<br>b. If yes, should the proposed rule define with greater specificity when information "significantly contributed" to enforcement action? In what way should the phrase be defined? | |
| 22 | Is the proposal in Paragraph (c)(2), which would consider that a whistleblower's information "led to" successful enforcement even in cases where the whistleblower gave the Commission original information about conduct that was already under investigation, appropriate? Should the Commission's evaluation turn on whether the whistleblower's information would not otherwise have been obtained and was essential to the success of the action? If not, what other standard(s) should apply? | N/C |
| 23 | The Commission requests comment on the proposed definition of the word "action." Are there other ways to define an "action" that are consistent with the text of Section 21F and that will better effectuate the purposes of the statute? | N/C |
| 24 | Is the proposed definition of "appropriate regulatory agency" appropriate? Are there other definitions that that should be adopted instead? | N/C |
| 25 | Is the proposed definition of "self-regulatory | N/C |

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| | organization" appropriate? Are there other definitions that that should be adopted instead? | |
| 26 | Is the provision stating that the percentage amount of an award in a Commission action may differ from the percentage awarded in a related action appropriate? | N/C |
| 27 | Should the Commission identify, by rule, additional criteria that it will consider in determining the amount of an award? If so, what criteria should be included? Should we include as a criterion the consideration of whether, and the extent to which, a whistleblower reported the potential violation through effective internal whistleblower, legal or compliance procedures before reporting the violation to the Commission? Should we include any of the other considerations described above? | N/C |
| 28 | Should we include the role and culpability of the whistleblower in the unlawful conduct as an express criterion that would result in reducing the amount of an award within the statutorily-required range? Should culpable whistleblowers be excluded from eligibility for awards? Would such an exclusion be consistent with the purposes of Section 21F? | We believe that culpable whistleblowers should be excluded from eligibility for monetary rewards. |
| 29 | Because representation of whistleblowers constitutes practice before the Commission by an attorney, should the Commission consider adopting rules governing conduct by attorneys engaged in this type of practice? In some contexts, courts have disallowed excessive fee requests to attorneys for whistleblowers. Should we adopt a rule regarding fees in the representation of whistleblower clients? Would such a rule encourage or | We believe that this is a major area of concern. Attorneys will not be easily determine whether it is worth their time to represent whistleblowers on a contingency basis, and so will be inclined to bill hourly for their time, which will dissuade the whistleblowers since they will not want to risk significant out-of-pocket expenses for legal representation. The only way to fully encourage anonymous submissions that would require the assistance of an attorney, attorneys should be encouraged to establish flat fee pricing, the costs of which are co-sponsored by the Commission or by a fund set-up from contributions made by registrants similar to the way that company contributions fund unemployment insurance funds. |

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| | discourage whistleblower submissions? | To fully encourage whistleblowers, it should be easy to get competent legal representation when elected without undue burden or cost. The only way to ease this process would be for designated attorneys to already be identified as "participating" in a newly developed program that welcomes tips from corporate employees, insiders, and other would-be whistleblowers. |
| 30 | We request comment on the manner of submission requirements set forth in Proposed Rule 21F-8(b). Are these requirements appropriate? Should there be different or additional requirements to supplement the submission of information as set forth in Proposed Rule 21F-9? | N/C |
| 31 | We also request comment on the ineligibility criteria set forth in Proposed Rule 21F-8(c). Are there other statuses or activities that should render an individual ineligible for a whistleblower award? | N/C |
| 32 | Although the Commission is proposing alternative methods of submission, we expect that electronic submissions would dramatically reduce our administrative costs, enhance our ability to evaluate tips (generally and using automated tools), and improve our efficiency in processing whistleblower submissions. Accordingly, we solicit comment on whether it would be appropriate to eliminate the fax and mail option and require that all submissions be made electronically. Would the elimination of submissions by fax and mail create an undue burden for some potential whistleblowers? | We believe that in the modern age of electronic communications, eliminating paperwork is the only feasible path to pursue. Similarly, the IRS has impressively reduced the number of paper tax returns processed due in large part to a decade of educational initiatives that gradually trained taxpayers to embrace e-filing. From an environmental and cost perspective, electronic submissions are the appropriate option. |
| 33 | Is there other information that the Commission should elicit from whistleblowers on Proposed Forms TCR and WB-DEC? Are there categories of information included on these forms that are unnecessary, or should be | N/C |

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| | modified? | |
| 34 | Is the requirement that an attorney for an anonymous whistleblower certify that the attorney has verified the whistleblower's identity and eligibility for an award appropriate? Is there an alternative process the Commission should consider that would accomplish its goal of ensuring that it is communicating with a legitimate whistleblower? | We believe that this certification should be extended to other groups besides just attorneys. The Commission should consider whether other independent third parties, for example Certified Public Accountants, might be an appropriate party for maintaining the security and privacy of a whistleblower's identify. Further, a CPA is likely to be better informed than the average attorney due to greater familiarity with Sarbanes-Oxley and previously established accounting-specific compliance requirements from various authorities. |
| 35 | Is the Commission's proposed process for allowing whistleblowers 120 days to perfect their status in cases where the whistleblower provided original information to the Commission in writing after the date of enactment of Dodd-Frank but before adoption of the proposed rules reasonable? Should the period be made shorter (e.g., 30 or 60 days) or longer (e.g., 180 days)? | N/C |
| 36 | Are there any ways we can streamline and make the required procedures more user-friendly? | N/C |
| 37 | We request comment on the significance of the tension between the interests of whistleblowers and victims in this circumstance, the likelihood that this situation would arise, and whether there is anything that the Commission can or should do to mitigate this tension. | N/C |
| 38 | For example, in determining whether the $1,000,000 threshold for a covered action has been met, should we exclude monetary sanctions ordered against an entity whose liability is based substantially on conduct that the whistleblower directed, planned, or initiated? Should we exclude those amounts from monetary sanctions | N/C |

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| | collected for purposes of making payments to whistleblowers? | |
| 39 | Is the proposed exclusion of monetary sanctions ordered against an entity whose liability is based substantially on conduct that the whistleblower directed, planned, or initiated appropriate? Is the proposed exclusion sufficient to permit the Commission to deny awards in cases where the payment of an award would be against public policy? Should we instead exclude any wrongdoer from being eligible to receive an award categorically, or in particular circumstances? Should an individual's level of culpability be considered as a factor in determining whether the person is eligible for an award? Are there other ways in which we should limit the payment of awards to culpable individuals? | N/C |
| 40 | Should these provisions be narrowed and, if so, why and in what manner? Would these provisions encourage whistleblowers to provide information to the Commission regarding potential securities law violations? Are there additional measures that the Commission could consider to encourage and facilitate whistleblowers' communications with Commission staff? | N/C |
| 41 | Should the Commission consider rules to address other potential issues that may arise from state bar professional responsibility rules when the Commission staff receives information about potential securities law violations from whistleblowers? For example, are there circumstances where the staff's receipt of information from whistleblowers potentially conflicts with the state | N/C |

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| | bar professional responsibility rules that are modeled on ABA Model Rules of Professional Responsibility 4.4(a) and 8.4(a)? If so, should the Commission consider promulgating rules to address these potential conflicts? | |
| 42 | Should the anti-retaliation protections set forth in Section 21F(h)(1) of the Exchange Act be applied broadly to any person who provides information to the Commission concerning a potential violation of the securities laws, or should they be limited by the various procedural or substantive prerequisites to consideration for a whistleblower award? Should the application of the anti-retaliation provisions be limited or broadened in any other ways? For example, should the Commission consider promulgating a rule to exclude frivolous or bad faith whistleblower claims from the protections afforded by the anti-retaliation provisions? If so, what rules should be adopted to address these problems? | N/C |
| 43 | Are there rule proposals that the Commission should consider promulgating to ensure that the anti-retaliation provisions are not used to protect employees from otherwise appropriate employment actions (i.e., employment actions that are not based on reporting potential securities law violations)? | N/C |