

Amendments to Whistleblower Program Rules



The SEC adopted two amendments to Exchange Act Rules 21F-3 and 6, the rules governing its whistleblower program:

- The first amendment addresses instances when an SEC whistleblower applies for an award that may otherwise be paid from another, non-SEC, whistleblower program.
- The second affirms the Commission's authority to consider the dollar amount of a potential award for the limited purpose of increasing an award, but not to lower an award.

Why This Matters

Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act added Section 21F to the Securities Exchange Act of 1934, establishing the Commission's whistleblower program. Among other things, Section 21 authorizes the SEC to make monetary awards to eligible individuals who voluntarily provide original information that leads to successful SEC enforcement actions resulting in monetary sanctions exceeding \$1 million and certain successful related actions. Awards must be made in an amount equal to 10-30 percent of the monetary sanctions collected. Since the program's inception, the Commission has awarded more than \$1.3 billion to 287 individuals, whose information and cooperation assisted the Commission in bringing successful enforcement actions.

How This Rule Applies

Related Action Claims Covered by Another Whistleblower Program:

- Under Exchange Act Section 21F(b) and Rule 21F-11, a whistleblower who obtains an award based on a Commission covered action also may be eligible for an award based on monetary sanctions that are collected in an action brought by other statutorily-identified authorities.
- The amendments allow the Commission to make an award for a related action that might otherwise be covered by an alternative whistleblower program even where the alternative whistleblower program has the more direct or relevant connection to the related action in certain circumstances.
- If a claimant files a related-action award application, and the alternative award program is not comparable to the Commission's program, the Commission will treat the non-Commission action as "related" for purposes of the Commission's award program (regardless of whether the alternative award program has a more direct or

relevant connection to the action). Under the amendment, a program is not comparable if that program's statutory award range is more limited, its awards are subject to an award cap, or it is discretionary and not mandatory. Further, the Commission will make an award on a potential related action without regard to which program had the more direct or relevant connection to the action if the maximum award that the Commission could pay on the action would not exceed \$5 million.

- Under the amendments, a whistleblower will be required to make an irrevocable waiver of any claim to an award from the other whistleblower award program.

Discretion to Consider the Dollar Amount of the Award:

- In 2020, amendments added language to Rule 21F-6 stating that the Commission has discretion to consider the dollar amount of a potential award when making an award determination.
 - The amendments affirm the Commission's authority to consider the dollar amount of a potential award for the limited purpose of increasing the award amount but eliminate the Commission's authority to consider the dollar amount of a potential award for the purpose of decreasing an award.
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Additional Information:

The whistleblower rule amendments will become effective 30 days after publication in the Federal Register and will apply to any whistleblower award application that is pending with the Commission as of that date, as well as to all future-filed award applications.