

CFTC Whistleblower Program Issues \$10 Million Award

The Commodity Futures Trading Commission (“CFTC”) announced on April 4, 2016, that it would make a \$10 million award to a whistleblower through authority provided by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. This is the third whistleblower award made by the CFTC, dwarfing the prior awards of \$290,000, announced on September 29, 2015, and \$240,000, announced on May 20, 2014. The CFTC does not disclose the identity of whistleblowers. To qualify for a whistleblower award, an informant must voluntarily provide the CFTC with original information leading to the successful enforcement of a “covered” judicial or administrative action, or related action. A “covered” action means any judicial or administrative action brought by the CFTC under the Commodity Exchange Act, which results in monetary sanctions in excess of \$1,000,000. The amount of the award is subject to the CFTC’s discretion, and will be between 10 and 30 percent of the sum(s) collected in the action or related actions.

The CFTC’s whistleblower program faced recent public scrutiny, including the announcement that the CFTC’s Office of the Inspector General (“OIG”) is investigating the limited number of awards paid to whistleblowers. A February 2016 Wall Street Journal Article noted that, as of September 2015, the CFTC’s Whistleblower Office held \$268 million, out of which only \$530,000 had been paid to two whistleblowers, in comparison to the SEC’s payment of over \$55 million to 23 whistleblowers.¹ This disparity – now narrowed – may be due to a number of factors, including the fact that the CFTC’s jurisdiction encompasses far fewer potential enforcement targets than the SEC.

Financial institutions whose work brings them regularly under the supervision and oversight of the CFTC and its enhanced Dodd-Frank authority should anticipate a now heightened incentive for employees and others to make disclosures under the CFTC Whistleblower Program. Prudence dictates that these entities review their codes of conduct and other related policies which address internal reporting of misconduct in order to best position themselves to identify and address potential issues internally before they become the subject of a whistleblower complaint.

To discuss these matters further, please contact either of the following [Murphy & McGonigle](#) lawyers:

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¹ Jean Eaglesham, *CFTC Can’t Give Whistleblower Money Away*, Wall Street Journal, (February 8, 2016), <http://www.wsj.com/articles/cftc-cant-give-whistleblower-money-away-1454876128>