Blogs

The Securities and Exchange Commission announced this week that it has awarded its first whistleblower payout to a former company officer.

The redacted order indicates that the former officer will receive an award between $475,000 and $575,000 for reporting high-quality, original information about a securities fraud that resulted in an SEC enforcement action with sanctions exceeding $1 million. The identity of the officer and the nature of the enforcement action were redacted by the Commission to protect the anonymity of the whistleblower, as required by law. While the SEC has publicized other significant whistleblower awards over the last two years, this particular announcement serves as an alarm bell of sorts to internal gatekeepers and decision makers responsible for handling allegations of misconduct. The Commission normally will not consider information provided by officers, directors, trustees, or partners who learn about a fraud through another employee reporting the misconduct to be original information derived from independent knowledge or independent analysis. But, an exception exists under Rule 21F-4(b)(4)(v)(C) for reporting information to the Commission more than 120 days after other responsible compliance personnel possessed the information and failed to adequately address the issue. In the SEC press release accompanying the order, SEC representatives made clear that they will continue to entertain tips from corporate employees at all levels: "Corporate officers have front-row seats overseeing the activities of their companies, and this particular officer should be commended for stepping up to report a securities law violation when it became apparent that the company's internal compliance system was not functioning well enough to address it," said Andrew Ceresney, director of the SEC's Division of Enforcement. "Receiving information and cooperation from company insiders is particularly useful in the early detection of securities fraud, and we will continue to leverage whistleblower information to help combat securities law violations and better protect investors and the marketplace," added Sean McKessy, chief of the SEC's Office of the Whistleblower. "Meanwhile, companies must have rigorous internal compliance programs that adequately address and remedy potential violations voiced by their employees as well as by their officers, directors, or other individuals." The Commission has now awarded 15 whistleblowers payouts under its whistleblower program, established under the Dodd-Frank Act of 2010, totaling nearly $50 million out of an investor protection fund established by Congress. The largest whistleblower payout awarded under the program—more than $30 million to a foreign tipster—was announced last September. Just prior to that award, Attorney General Eric Holder announced in a speech that he wanted to boost payouts to motivate more tipsters. Whistleblower awards to eligible individuals can range from 10 percent to 30 percent of the money collected in a case. But as discussed here, only a small fraction of whistleblowers have actually received payouts under the program.

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