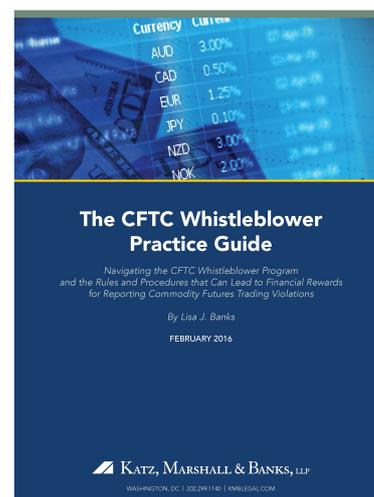


# What does “Successful Enforcement” Mean: Understanding the CFTC’s Terminology

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The CFTC’s commitment to curbing commodity futures trading violations is exemplified by its [Whistleblower Program](#): when a whistleblower provides original information that leads to a successful investigation and results in sanctions over \$1,000,000, she is entitled to a percentage of that award. Though this is an attractive incentive on its face, it is helpful for prospective whistleblowers to understand the exact meaning of the phraseology.



So, what does “successful enforcement” mean, and what sort of information can lead to a positive result?

1. Information provided must be “sufficiently specific, credible, and timely” to cause the Commission to start an examination, open or reopen an investigation, or to look into different conduct within an ongoing examination/investigation.
2. This information must then form the whole or partial basis for a successful judicial or administrative action.
3. If the information pertains to an existing investigation/examination, the new material must “significantly contribute” to the success of the action.

In determining the amount of sanctions and whether it passes the \$1 million threshold, the CFTC looks: (1) to the amount of money collected through penalties, disgorgement, restitution and interest ordered to be paid in a judicial or administrative action; (2) payment collected through a successful resolution; (3) money deposited in a disgorgement fund under the Sarbanes-Oxley Act of 2002 as the result of a CFTC enforcement action or settlement.

Lastly, an “enforcement action” generally refers to a single judicial or administrative proceeding, though the CFTC may group actions together from two or more proceedings that stem from common facts. The CFTC determines whether two or more proceedings stem from the “same nucleus of operative facts” by looking at the parties, factual allegations, and alleged violations of federal securities laws.

Legalese is notoriously difficult to parse, but understanding the procedures of the CFTC Whistleblower Program is crucial to evaluating and submitting a whistleblower tip. [Lisa Banks’ CFTC Whistleblower Practice Guide](#) provides prospective whistleblowers with a concise, accurate outline of the Program’s procedures and best practices to enable them to contribute information effectively.