

Spike in CFTC Whistleblower Awards as Enforcement Expands in Four Key Areas

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The U.S. Commodities Futures Trading Commission (“CFTC”) has recently released four alerts aimed at encouraging whistleblowers to come forward with information about [money laundering](#), [insider trading](#), [foreign corrupt practices](#), or [virtual currency fraud](#). These public statements and a recent spike in awards under the CFTC Whistleblower Program suggest that the Commission is ramping up its enforcement activities, and that it views whistleblowers as critical to its success.

The Agency and CFTC Whistleblower Program

Congress created the CFTC in 1974 as an independent regulatory agency charged with enforcing the Commodity Exchange Act and ensuring the integrity of the commodities futures markets. The CFTC’s jurisdiction over the commodities futures markets has grown over the years and now includes a wide range of commodities, from agricultural products to oil to financial instruments such as stock index futures. In the aftermath of the 2008 financial crisis, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, expanding the CFTC’s regulatory authority to cover the \$400 trillion swaps market. Under Dodd-Frank, the CFTC has authority over many different kinds of financial agreements and transactions, including interest rate swaps, commodity swaps, currency swaps, equity swaps and credit default swaps.

With Dodd-Frank, Congress also created the [CFTC Whistleblower Program](#). Under the Program, the CFTC is required to pay awards to eligible whistleblowers who voluntarily provide the Commission with original information that leads to a successful enforcement action in which the CFTC recovers monetary sanctions in an amount over \$1,000,000. If the whistleblower meets the criteria of the Program, he or she is entitled to an award of 10% to 30% of the amount recovered by the CFTC or by certain other authorities in related actions.

Recent Whistleblower Awards and Alerts

Although the [CFTC Whistleblower Program](#) began accepting tips in September 2012, it started out very slowly and did not issue any awards until May 2014. In recent years, the Program has become much more active. In total, the Program has issued fourteen awards totaling over \$90 million, issuing ten of those awards totaling more than \$80 million since 2018. The latest award of approximately \$7 million was announced on September 27, 2019. In the [award announcement](#), CFTC Director of Enforcement James McDonald stated, “Forty percent of our investigations now involve whistleblowers. We expect that number to increase as the CFTC continues to expand its whistleblower program.”

As part of the program's expansion, the CFTC issued the four recent whistleblower alerts so that insiders and other participants in the futures and swap markets know about the broad reach of the CFTC's enforcement powers.

For instance, in its money laundering alert, issued in September 2019, the CFTC noted that it has taken action against Futures Commission Merchants and Introducing Brokers who fail to maintain adequate anti-money laundering or customer identification programs, or fail to file suspicious activity reports or currency transaction reports to notify regulators of potentially unlawful activity.

In its insider trading alert, issued in June 2019, the CFTC cited enforcement actions under the Commodity Exchange Act and CFTC regulations that prohibit trading on the basis of material nonpublic information in breach of a pre-existing duty or on the basis of information obtained by fraud or deception.

The [foreign corrupt practices](#) alert, issued in May 2019, made clear that the CFTC can take actions against those who use bribery or other corrupt practices to alter the prices in commodity markets, wrongfully secure business in connection with activities regulated by the CFTC, or manipulate benchmarks that serve as the basis for related derivatives contracts.

In its virtual currency alert, issued in May 2019, the CFTC declared its mission to prevent fraud and manipulation in the virtual currency market, as virtual currencies qualify as "commodities" subject to the Commodity Exchange Act.

In addition to showing the vast scope of the CFTC's enforcement power, the alerts make clear that many people, not just industry insiders, may be able to serve as whistleblowers with useful information. Victims of fraud or other market participants who learn of misconduct committed by others may qualify as whistleblowers and file tips under the Program.

More Whistleblowers Wanted

The CFTC's [recent awards](#) and whistleblower alerts show that it is standing ready to take more enforcement actions based on whistleblower tips. If you know about fraudulent or illegal conduct in the commodities futures or swaps markets, you should consult with an experienced whistleblower lawyer about filing a tip with the CFTC Whistleblower Program.