

## [Securities Regulation Daily Wrap Up, WHISTLEBLOWER—CFTC awards \\$3 million to whistleblower but is the program in financial straits?, \(Apr. 23, 2021\)](#)

Securities Regulation Daily Wrap Up

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The CFTC's latest whistleblower award paid out \$3 million, but the agency is reportedly having to slow-walk applications to avoid depleting the whistleblower fund.

The CFTC announced a new whistleblower award of \$3 million, resulting in a total of approximately \$123 million awarded since the program's first award in 2014. With total sanctions associated with whistleblower awards now totaling more than \$1 billion, the [latest order](#) seems to demonstrate continued success.

But that success may threaten the integrity of the program. The Commission has reportedly warned Sen. Chuck Grassley (R-Iowa) that the program is at such great risk of a cash shortage that the CFTC has paused review of whistleblower applications. To fix the cash shortage, Grassley has [introduced](#) a bipartisan bill to expand the CFTC whistleblower fund, which does not draw on taxpayer funds.

**\$3 million award reaches major milestones.** The award is heavily redacted, as awards typically are in order to protect confidentiality. According to the order, a [single whistleblower](#) voluntarily provided original information that led to the successful enforcement of a covered action. The CFTC denied the applications of two other whistleblowers in the action.

According to CFTC Acting Director of Enforcement Vincent McGonagle, reaching the milestone of \$1 billion in whistleblower-related sanctions shows that the program has had a tremendous impact on increasing enforcement efforts in its short history.

"In many of our actions, whistleblowers' assistance has been critical in revealing wrongdoing, and their tips ultimately conserve the CFTC's time and resources," said McGonagle.

Whistleblowers are eligible to receive between 10 and 30 percent of collected sanctions, giving a substantial financial incentive to report violations. With \$123 million awarded since the program's inception and related sanctions of \$1 billion collected, it appears that awards trend toward the lower end of the curve on average.

**Program running into cash shortage?** As explained in the Grassley press release, CFTC whistleblowers are paid from the agency's Customer Protection Fund. The fund does not draw from the CFTC's budget or taxpayer funds. Instead, the fund is fed by sanctions collected, up to a cap of \$100 million. Amounts collected over the cap are sent to the Treasury's general fund.

But the program risks becoming a victim of its own success, said Grassley. In recent years, the size and quantity of fines stemming from successful whistleblower disclosures have increased, leading to larger reward disbursements. As a result, awards risk depleting the fund before it can be replenished.

Grassley said the situation has gotten so dire that the Commission recently told his office that the agency has temporarily paused review of some cases that could wipe out the fund.

"I've been raising concerns about this issue for months and introduced legislation last year to address this problem, but Congress dragged its feet. Now whistleblowers are being asked to pay the price by waiting until the government can afford to review their claims," said Grassley.

**A simple fix.** The CFTC Fund Management Act would make two fairly minor tweaks to ensure the whistleblower program's continued financial integrity and prevent delays:

- Raise the fund cap to \$150 million;
- Temporarily establish a separate account to house funds used to pay operating and programming expenses.

The changes would ensure that the office will be able to continue operations if the overall amount held in the Customer Protection Fund drop to a critical level.

"By raising the cap on the whistleblower reward fund we will help prevent this successful program from becoming depleted. This is an important bipartisan bill and I urge my colleagues on both sides of the aisle to join us in supporting its swift passage," said Sen. Maggie Hassan (D-NH), a cosponsor of the bill.

Grassley urged Congress to act quickly. "We can't allow this program to become a victim of its own success. Congress has to pass this bill now to ensure that the CFTC whistleblower program remains solvent and can continue to grow."

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