



# CFTC's Whistleblower Program

Commissioner Dan M. Berkovitz

# Disclaimer

All views I express today are my own and not those of the Commission, nor are they meant to be construed as statements of Commission or CFTC policy.

# CFTC Mission

- Created by Congress in 1974 as an independent agency to regulate US commodity futures and option markets
- In 2010, the Dodd-Frank Act expanded the CFTC's authority to the swaps markets

# Whistleblower Program Created

- In 2010, the Dodd-Frank Act created the CFTC's Whistleblower Program
  - Section 23 of the Commodity Exchange Act (“CEA”) (7 U.S.C. § 26)
- The Whistleblower Rules (17 C.F.R. pt. 165) implement Section 23 of the CEA
  - Adopted in 2011, amended in 2017

# Whistleblower Awards



- Since inception, CFTC has awarded over \$110 million to 20 whistleblowers
- Commission actions associated with whistleblower awards have resulted in sanctions totaling more than \$900 million

# Who Can Receive an Award?

- One or more individuals who provide information about a suspected violation
- Need **not** be an insider
- The information must:
  1. Be Voluntarily Provided
  2. Be Original
  3. Result in an Enforcement Action of > \$1M



# Amount of Award

- **10% - 30%** of CFTC collection in cases where monetary sanctions are over \$1 million, including related actions
- Awards come from a separate fund and do not divert restitution from harmed investors or agency appropriations

# Whistleblower Protections

- A whistleblower may remain anonymous
- CFTC will not release whistleblower information unless required or approved by Enforcement Director
- Rules protect against agreements designed to prevent reporting to the CFTC
- CFTC may sanction employers for retaliating against whistleblower employees
- Employee may bring a private action against his/her employer





# Whistleblower Tips

- In 2019, the CFTC's Whistleblower Office received 455 tips
- 40% of CFTC Enforcement investigations involve a whistleblower
- Tip subjects include: Fraud and manipulation of futures markets, virtual currency fraud, and insider trading



# Tips May Relate to Disclosure Violations

- Whistleblowers can be insiders, other market participants, or harmed customers, so the range of disclosure violations CFTC might hear about is wide
- Tips could cover:
  - failure to disclose conflicts of interest, by taking positions opposite customers through affiliated entities, or by directing customers to funds that share management or performance fees (without disclosure to customers); or
  - failure to provide customers with disclosures relating to risk, such as the potential for rapid losses using leveraged trading, or customer profit and loss history

# <https://www.whistleblower.gov>



U.S. Commodity Futures Trading Commission  
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## The Whistleblower Program

The CFTC's Whistleblower Program provides monetary incentives to individuals who report possible violations of the Commodity Exchange Act that lead to a successful enforcement action, as well as privacy, confidentiality, and anti-retaliation protections for whistleblowers who share information with or assist the CFTC.



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# Whistleblower Alerts



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Things To Know

This page contains alerts on trending topics published by the Whistleblower Office. These alerts are provided for general informational purposes only and should not be relied upon as legal or investment advice by any individual or entity.

Spoofing

Bank Secrecy Act

Insider Trading

Foreign Corrupt Practices

Digital Assets/Virtual Currency

# Whistleblower Office Contact Information

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