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CFTC Triples Record With \$30M Whistleblower Award

By **Dean Seal**

Law360 (July 12, 2018, 2:44 PM EDT) -- The U.S. Commodity Futures Trading Commission said Thursday that it would be doling out approximately \$30 million to an insider who volunteered information central to a successful enforcement action — the fifth, and by far the largest, award yet from the agency's young whistleblower office.

The bounty is three times the size of the **previous largest award** paid to a whistleblower in April 2016. According to CFTC officials, this could be a harbinger of increased activity for the whistleblower program that underwent **significant changes last year** to "strengthen and enhance" the agency's ability to prevent fraud and protect financial markets.

"The whistleblower program has become an integral component in the agency's enforcement arsenal," CFTC chairman J. Christopher Giancarlo said in a statement. "We hope that an award of this magnitude will incentivize whistleblowers to come forward with valuable information, and provide notice to market participants that individuals are reporting quality information about violations of the Commodity Exchange Act."

The agency's announcement Thursday and the redacted order that accompanied it did not identify the whistleblower or the enforcement action that led to the \$30 million award, as the agency is bound to protect the individual's confidentiality.

Granted to them in 2010 by the Dodd-Frank Act, both the CFTC and U.S. Securities and Exchange Commission have the power to reward eligible tipsters between 10 and 30 percent of the monetary sanctions if their information leads to a successful enforcement action that results in more than \$1 million in sanctions, regardless of which agency initiates the action.

Decidedly less prolific than the SEC's iteration of the program, the CFTC did not issue its **first whistleblower award** until 2014, but whistleblower office director Christopher Ehrman said at the time that the \$240,000 award was meant to send a "strong message" about the agency's willingness to reward insiders for their information. In an **interview with Law360** the following year, Ehrman attributed the program's slow rollout to the CFTC's smaller scope and the technical and complex nature of its enforcement actions.

The office paid out \$290,000 in its second award in September 2015 but upped the ante significantly with the \$10 million April 2016 award. While the SEC still outpaced the office significantly, having awarded more than \$57 million to 26 whistleblowers at that point, Ehrman said at the time he hoped the eight-figure award would encourage more tipsters to come forward.

A year later, the agency approved changes to its program to clarify that whistleblowers can

bring their tips to Congress, another law enforcement agency or a foreign regulator first, at which time they have 180 days to bring their information to the CFTC. It further noted that tipsters can reap awards from not only the CFTC for their information, but also any related actions brought by other entities based on the same information.

The CFTC's order for the \$30 million award noted that four other claimants from the underlying enforcement action were denied an award for failing to meet the program's requirements, but that information gleaned from the award's sole recipient was "specific, timely and credible, and caused commission staff to launch an investigation."

"Claimant was extensively involved in the investigation, and was truthful, forthcoming and cooperative," the CFTC's order said. "Claimant's willingness to provide the commission with ongoing, extensive and timely assistance conserved the commission resources."

As he was in April 2016, Ehrman is optimistic about what the substantial award will mean for the program going forward.

"The number of leads the office receives continues to grow each year by the hundreds," he said. "We hope that this award will continue to facilitate the upward momentum and success of the CFTC's whistleblower program by attracting those with knowledge of wrongdoing to come forward."

--Additional reporting by Jack Newsham, Ed Beeson and Stephanie Russell-Kraft. Editing by Dipti Coorg.

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