



# Alert

White Collar Defense and Investigations, Securities Litigation and Enforcement,  
and Labor and Employment Client Service Groups

To: Our Clients and Friends

November 20, 2014

## SEC Touts Historic Year for the Whistleblower Program

On November 17, 2014, the Securities and Exchange Commission (“SEC”) released its annual report to Congress on the Dodd-Frank Whistleblower Program (the “Program”). That report notes that Fiscal Year 2014 was historic for the Commission’s Office of the Whistleblower, both in terms of the number and dollar value of whistleblower awards. In Fiscal Year 2014, The Commission issued whistleblower awards to more individuals than in all previous years combined, and issued the largest award in the history of the program of more than \$30 million to a whistleblower who “provided key original information ... of an ongoing fraud that otherwise would have been very difficult to detect.” In Fiscal Year 2014, the Office of the Whistleblower received 3,620 whistleblower tips, continuing its streak of receiving more complaints each year since the Program began in 2011. The Program has received more than 10,000 tips in its four year history.

- For the first time, this report includes profiles of whistleblowers who have received awards under the Program:
  - While whistleblowers need not be company insiders, more than 40% of whistleblowers receiving awards to date were former or current employees, and an additional 20% were contractors, consultants, or were solicited to act as consultants for the company committing the securities violation. The remaining whistleblowers receiving awards were investors, professionals working in the same or similar industries, or individuals with personal relationships with the defendants.
  - Of those whistleblowers who were current or former employees, more than 80% made internal reports before reporting information to the Commission.

This Client Alert is published for the clients and friends of Bryan Cave LLP. Information contained herein is not to be considered as legal advice. This Client Alert may be construed as an advertisement or solicitation. © 2014 Bryan Cave LLP. All Rights Reserved.

- Notably, while most whistleblowers were not represented by counsel at the time they submitted their reports, most whistleblowers receiving awards obtained counsel before applying for awards under the Program.
- The report emphasized the importance of internal reporting, touting a \$400,000 award to a whistleblower who reported a fraud to the SEC after the company failed to address the issue internally, and noted the whistleblower’s “persistent efforts” to report information about the alleged wrongdoing.
- This past year saw the Program’s first award to an individual with audit and compliance responsibilities, who reported securities violations to the Commission after the company failed to take any action on the whistleblower’s internal reports.
- The report also noted the Commission’s first case under the anti-retaliation provision of the Dodd-Frank Act and the *amicus curiae* briefs that the Commission filed this past year urging courts to apply the Dodd-Frank employment retaliation provisions to individuals who report potential securities law violations internally at public companies as well as to the Commission.

The report did not include any information about the identity of the individuals, whose confidentiality Chief of the Whistleblower Office, Sean McKessy, has previously called “sacrosanct.” The report reiterated that “The office views protecting whistleblower confidentiality as an integral component of the whistleblower program.”

The report’s emphasis on internal reporting is notable given frequently voiced concerns that the program’s requirement for original information encourages whistleblowers to report first to the Commission. As the Program continues to increase its visibility by announcing more awards of ever increasing value, it continues to be important for companies (1) to ensure that they have vigorous compliance programs in place to prevent and detect potential issues and (2) to respond immediately and effectively to internally reported information. For further information, see our previous alerts: [SEC Touts Whistleblower Award to a Compliance Professional - Use Care in Responding to Reports of Potential Violations](#) and [It Pays to Blow the Whistle: SEC Doles Out Record-Breaking \\$30 Million Award to Overseas Whistleblower](#).

For more information about this update, or if you have any questions regarding Bryan Cave’s [White Collar Defense and Investigations](#) or [Securities Litigation and Enforcement](#) Groups, please contact [Mark Srere](#), [Jennifer Mammen](#), or [Tyson Johnson](#) in Washington, D.C., at +1 202 508 6000 or [Mary Beth Buchanan](#) in New York at +1 212 541 2000. If you have any questions regarding Bryan Cave’s [Labor and Employment](#) Group, please contact [Elaine Koch](#) in Kansas City at +1 816 374 3235.