

Insights

U.S. SECURITIES AND EXCHANGE COMMISSION ISSUES A \$27 MILLION ENFORCEMENT REMINDER

Apr 17, 2020

The Securities and Exchange Commission has issued a reminder that when the business world returns to standard operations, enforcement actions will have a stinging bite. On April 16th the Commission announced that it will award more than \$27 million to a whistleblower who objected to misconduct within their organization. This is the largest such award announced so far in 2020 and it brings the total awarded to whistleblowers to approximately \$425 million since 2012.

In its order announcing the whistleblower award, the Commission noted that the whistleblower provided significant information and ongoing assistance to the government, but it also noted that the whistleblower repeatedly and strenuously raised concerns internally. This underscores the need for compliance programs to include publicized access to hotlines or other mechanisms for employees, and potentially others, to report concerns. It also highlights the need for dedicated procedures to follow up on all such reports, and also the need for taking action in appropriate cases.

During the Covid-19 crisis companies and their employees are facing many immediate, unique challenges, some of which are existential. These kinds of stresses can lead to temptation and carelessness. This Alert is a brief reminder that when these dire days are behind us enforcement actions will return with gusto. Some of those actions will be spawned by whistleblowers assisted by “whistleblower attorneys.” So now is not the time to abandon vigilance. In addition to the many other unique burdens facing General Counsels today, continued attention to, and rigorous implementation of internal compliance programs should remain an important facet of a General Counsel’s responsibilities.

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