



CFTC Issues Final Whistleblower Rules Under Dodd-Frank: Incentives and Protections

On August 4, 2011, the Commodities Futures Trading Commission ("CFTC") issued final rules implementing its whistleblower program under section 748 of the Dodd-Frank Act. These rules will take effect sixty days after their publication in the Federal Register, scheduled for August 25, 2011, and will be found at 17 C.F.R. Part 165.

In sharp contrast to the SEC's whistleblower program, which expects to receive approximately 30,000 tips a year, the CFTC states in its comments to the regulations that it expects to receive a mere 100 whistleblower tips a year. The CFTC bases its estimate of future tips on the volume of whistleblower tips it received in the first eleven months after the enactment of Dodd-Frank, during which time it received less than two dozen tips, and an expectation that the volume of tips will increase as the public becomes more aware of the CFTC's whistleblower program. Of course, the very small number of anticipated tips under section 748 means that this provision of Dodd-Frank will be of much less relevance to most employers as compared to Dodd-Frank's SEC whistleblower provision, section 922.

Section 748 and its implementing regulations are somewhat similar to section 922 and its regulations, yet there are a number of technical differences between the SEC and CFTC rules with respect to the definitions of various terms and conditions for eligibility for a bounty. As such, employers will not be able to rely solely on their knowledge of the SEC rules when analyzing potential issues under the CFTC whistleblower provisions. Like the SEC, however, the CFTC did reject suggestions in the comments to its proposed regulations that internal reporting be required before employees could blow the whistle to the Commission.

Contact Us

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