

CFPB Proposes Consumer Protection Whistleblower Reward Program

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To promote the Consumer Financial Protection Bureau's mission of preventing consumer harm, the CFPB is working with Congress to advance legislation that would create a whistleblower reward program. The [draft legislation creating a CFPB whistleblower reward program](#) is similar to the SEC whistleblower reward program. Under the proposed program, a whistleblower who provides original information to the CFPB relating to a violation of Federal consumer financial law that results in an enforcement action yielding at least \$1,000,000 in monetary sanctions would be eligible for an award of 10 to 30 percent of the collected monetary sanctions. The Consumer Financial Protection Act of 2010, which created the CFPB includes a provision protecting whistleblowers against retaliation for reporting violations of CFPB rules, but it does not authorize awards to whistleblowers.

Proposed CFPB Whistleblower Rewards Law Would Strengthen Consumer Financial Protection

A [whistleblower reward program at the CFPB](#) could significantly augment enforcement of consumer financial protection laws, including laws barring unfair, deceptive, or abusive acts and practices. The CFPB has authority over a broad array of consumer financial products and services, including mortgages, deposit taking, credit cards, loan servicing, check guaranteeing, collection of consumer report data, debt collection associated with consumer financial products and services, real estate settlement, money transmitting, and financial data processing. In addition, the CFPB is the primary consumer compliance supervisory, enforcement, and rulemaking authority over depository institutions with more than \$10 billion in assets.

Some of the consumer financial protection laws that the CFPB enforces include:

- Real Estate Settlement Procedures Act;
- Home Mortgage Disclosure Act;
- Equal Credit Opportunity Act;

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- Truth in Lending Act;
 - Truth in Savings Act;
 - Fair Credit Billing Act;
 - Fair Credit Reporting Act;
 - Electronic Fund Transfer Act;
 - Consumer Leasing Act;
 - Fair Debt Collection Practices Act;
 - Home Owners Protection Act; and
 - Secure and Fair Enforcement for Mortgage Licensing Act.

Whistleblower reward programs have proven to be very effective in combatting fraud and protecting the public fisc and investors.

- Since the SEC whistleblower program's inception, whistleblower tips have enabled the SEC to recover more than [\\$2 billion in monetary sanctions](#) from wrongdoers, including more than \$1 billion in disgorgement of ill-gotten gains and interest, of which nearly \$500 million has been, or is scheduled to be, returned to harmed investors.
- Qui tam whistleblower claims brought under the False Claims Act have enabled the government to recover more than \$40 billion.
- Whistleblowers disclosing tax fraud to the IRS have enabled the IRS to recover more than \$5.7 billion.
- Whistleblower disclosures to the CFTC have enabled the CFTC to recover more than \$800 million.

Key Facets of Proposed CFPB Whistleblower Reward Program

The proposed CFPB whistleblower reward program is modeled on the Dodd-Frank SEC whistleblower reward program. Key facets of the proposed program include:

- A whistleblower can report anonymously through counsel.
- If the CFPB is unable to collect at least \$1,000,000 of the monetary sanctions imposed in an enforcement action, the CFPB shall provide for an award equal to 10 percent of the amount collected or \$50,000, whichever is greater.
- The CFPB would be required to keep confidential information provided by a whistleblower, which could reasonably be expected to reveal the identity of a whistleblower, unless and until

required to disclose to a defendant or respondent in connection with a public proceeding instituted by the CFPB.

- The program would deny an award to a whistleblower (1) convicted of a criminal violation related to the administrative proceeding or court action for which the whistleblower otherwise could receive an award; (2) found to be liable for the conduct in the administrative proceeding or court action; or (3) who planned and initiated the conduct at issue.
- A whistleblower who submits information based on the facts underlying an administrative proceeding or court action previously submitted by another whistleblower would be ineligible for an award.
- To determine the amount of an award, the CFPB would consider the following factors: (i) the significance of the information provided by the whistleblower to the successful enforcement of the administrative proceeding or court action; (ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in an administrative proceeding or court action; (iii) the programmatic interest of the Bureau in deterring violations of federal consumer financial law (including applicable regulations) by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws; and (iv) such additional relevant factors as the Bureau may establish by rule or regulation.

The draft legislation creating a CFPB whistleblower reward program includes a \$10 million award cap. This provision should be eliminated because it would reduce the incentive to report the largest frauds. For example, the CFPB levied a [\\$1 billion penalty against Wells Fargo](#) for imposing improper fees to lock in mortgage rates, charging approximately 570,000 customers for auto insurance that they did not need, and engaging in other unlawful practices. If whistleblowers had come forward earlier, the CFPB could have avoided substantial harm to consumers, such as preventing 20,000 customers from defaulting on their car loans and having their cars repossessed. Many of the whistleblowers at Wells Fargo that tried to stop unlawful or deceptive practices paid a hefty price. For example, as far back as March 2009, [Ms. Yesenia Guitron](#) raised concerns about a co-worker opening accounts under clients' names [without their knowledge](#). When Ms. Guitron refused to participate in this scam, Wells Fargo terminated her employment due to her failure to meet sales quotas, and she could not find another job in the financial services industry.

Overall, the [CFPB's proposed whistleblower reward program](#) is a positive step forward to protect consumers from abusive and deceptive practices. Congress should act swiftly to enact this proposed legislation.

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