

## SEC Whistleblower Program: What are the largest SEC whistleblower awards? - Chapter 5

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The SEC issued its largest award, \$30 million, on September 22, 2014. The second- and third-largest awards to date are \$22 million, issued in August 2016, and \$20 million, awarded in November 2016.

Under the program, the SEC issues awards to [eligible whistleblowers](#) who provide original information that leads to successful SEC enforcement actions with total civil penalties exceeding \$1 million. A whistleblower may receive an award of between 10% and 30% of the total sanctions imposed.

Since 2012, the SEC has issued more than \$150 million in awards to whistleblowers. In 2016 alone, the program awarded more than \$57 million in to whistleblowers, which is more than the agency awarded in all the previous years of the program combined.

The details of most awards are not publicly available because many whistleblowers file anonymously, through attorneys. In these situations, the SEC goes to great lengths to not reveal any information, including any details about the enforcement action, that could expose the whistleblower.

For example, when the SEC issued \$30 million to an anonymous whistleblower, it did not identify the whistleblower, indicate where the whistleblower was from, or even disclose the case that the award was tied to. Andrew Ceresney, director of the SEC's enforcement division, simply said, "This whistleblower came to us with information about an ongoing fraud that would have been very difficult to detect." Further, the director mentioned that the award could have been even bigger if the whistleblower had timelier reported the information to the SEC.

However, not all whistleblowers file anonymously. On August 30, 2016, the SEC issued an award of more than \$22 million to a former Monsanto executive. (Note that special rules apply to certain individuals, such as executives, auditors, and compliance personnel.) According to the SEC's press release, Monsanto lacked sufficient internal controls to account for millions of dollars in rebates. This control failure allowed the company to book a sizable amount of revenue without recognizing the costs associated with the rebates. This resulted in Monsanto's materially misstating its consolidated earnings during a three-year period, ultimately leading to an \$80 million penalty from the SEC.

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## SEC Whistleblower Awards

The table below identifies some of the larger awards that the SEC has provided to whistleblowers:

| <b>Whistleblower Award</b>   | <b>Date</b>        | <b>Basis for Whistleblower Award</b>   |
|------------------------------|--------------------|--|
| <a href="#">\$30 million</a> | September 22, 2014 | <p>A foreign whistleblower came to the SEC with “information about an ongoing fraud that would have been very difficult to detect.”</p> <p>This reward underscores that <a href="#">non-US citizens</a> are eligible whistleblowers in the SEC Whistleblower Program.</p>  |
| <a href="#">\$22 million</a> | August 30, 2016    | <p>A former financial executive at Monsanto exposed <a href="#">weaknesses in the company’s internal controls</a> that failed to account for millions of dollars in rebates. Monsanto agreed to settle the <a href="#">allegations of accounting fraud</a> for \$80 million.</p> <p>Importantly, <a href="#">auditors and accountants</a> are eligible whistleblowers in the SEC Whistleblower Program. They are often best positioned to witness this type of wrongdoing.</p> |
| <a href="#">\$17 million</a> | June 9, 2016       | <p>A company insider “substantially advanced the agency’s investigation and ultimate enforcement action.”</p> <p>This award highlights that whistleblowers may receive a reward if they provide original information regarding an open SEC investigation that <a href="#">significantly contributes</a> to the success of the action.</p>  |
| <a href="#">\$14 million</a> | September 30, 2013 | <p>The whistleblower exposed a fraudulent offering that targeted foreign nationals who sought to invest in the U.S. economy and gain a legal pathway to citizenship through the <a href="#">EB-5 Immigrant Investor Program</a>.</p>   |

| Whistleblower Award           | Date             | Basis for Whistleblower Award  |
|-------------------------------|------------------|--|
| <a href="#">\$7 million</a>   | January 23, 2017 | <p>In 2016, the SEC increased staff in its investment adviser/investment company examination program. As such, we expect to see an <a href="#">increase in the number of actions brought against investment advisers and companies</a> in the coming years. Three whistleblowers split an award of more than \$7 million after helping the SEC prosecute an investment scheme.</p>   |
| <a href="#">\$5.5 million</a> | January 6, 2017  | <p>One whistleblower provided information that was a primary impetus for the start of the SEC's investigation. That whistleblower received more than \$4 million. Two other whistleblowers jointly provided new information during the SEC's investigation that <a href="#">significantly contributed</a> to the success of the SEC's enforcement action. Those two whistleblowers will split more than \$3 million. An anonymous whistleblower orally provided the SEC with critical information about ongoing securities fraud. Generally, the SEC requires that whistleblower provide information "in writing." However, the SEC waived that requirement in this case due to "highly unusual circumstances" and awarded the whistleblower more than \$5.5 million for the information.</p> <p>This award marks the second time that the SEC has deemed it appropriate to waive a procedural requirement. Former chief of the SEC whistleblower office, Sean McKessy, noted that this award underscores the SEC's discretionary authority to do what justice requires.</p> |

| <b>Whistleblower Award</b>           | <b>Date</b>        | <b>Basis for Whistleblower Award</b>   |
|--------------------------------------|--------------------|--|
| <a href="#"><u>\$5 million</u></a>   | May 17, 2016       | <p>A former company insider's detailed tip led the agency to uncover securities violations that would have been nearly impossible for it to detect but for the whistleblower's information.</p> <p>In the SEC's press release, it noted that employees are often best positioned to witness wrongdoing.</p>  |
| <a href="#"><u>\$4 million</u></a>   | April 25, 2017     | <p>The SEC issued the \$4 million award to an anonymous whistleblower who provided information that led another governmental authority (not the SEC) to a successful enforcement action resulting in significant monetary sanctions.</p> <p>This award highlights that SEC whistleblowers are still eligible for an award when they provide information to the SEC that leads other governmental authorities to a successful enforcement action resulting in monetary proceeds in excess of \$1 million.</p> |
| <a href="#"><u>\$4 million</u></a>   | September 30, 2016 | <p>The SEC issued the award to an anonymous whistleblower for "alter[ing] the agency to a fraud."</p> <p>The lack of information about the whistleblower and the enforcement action underscores how serious SEC is about protecting the confidentiality of whistleblowers.</p>   |
| <a href="#"><u>\$3.5 million</u></a> | May 13, 2016       | <p>The whistleblower "bolstered an ongoing investigation with additional evidence of wrongdoing" which helped the SEC during settlement discussions with the company.</p>  |
| <a href="#"><u>\$3.5 million</u></a> | December 5, 2016   | <p>A whistleblower received an award of \$3.5 million for providing original information to the SEC that led to a successful</p>   |

| <b>Whistleblower Award</b> | <b>Date</b> | <b>Basis for Whistleblower Award enforcement action.</b> |
|----------------------------|-------------|--|
|----------------------------|-------------|--|

To learn more about the SEC Whistleblower Program, download the eBook [\*SEC Whistleblower Program: Tips from SEC Whistleblower Attorneys to Maximize an SEC Whistleblower Award\*](#).

Chapter 1 - [What is the SEC Whistleblower Program?](#)

Chapter 2 - [Can I Submit Anonymous Tip to SEC Whistleblower Office?](#)

Chapter 3 - [What Employment Protections are Available for SEC Whistleblowers?](#)

Chapter 4- [What Violations Qualify For A SEC Whistleblower Award?](#)

Chapter 6- [Who Is An Eligible SEC Whistleblower?](#)

Chapter 7- [Can I submit a tip to the SEC Whistleblower Office if I was involved in the fraud or misconduct?](#)

Chapter 8- [Can I Submit A Tip to the SEC Whistleblower Office if I Agreed to a Confidentiality Provision in an Employment/Severance Agreement?](#)

Chapter 9- [Compliance Personnel, Auditors, Officers and Directors Can Obtain SEC Whistleblower Awards](#)

Chapter 10 - [When is Best Time to Report Fraud or Misconduct to SEC?](#)

Chapter 11 - [Do I Have To Report The Violation To My Company Before Reporting It To The SEC Whistleblower Office?](#)

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