

SEC to Announce Largest SEC Whistleblower Award to Date

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J.P. Morgan Whistleblowers to Split \$61 Million Award

The SEC Whistleblower Office is set to announce its largest SEC whistleblower award to date – more than \$61 million to two J.P. Morgan whistleblowers. Under the SEC’s whistleblower program, whistleblowers are eligible for awards when they provide original information to the SEC that leads to successful SEC enforcement actions, or related successful actions, resulting in monetary sanctions in excess of \$1,000,000. A whistleblower may receive an award of between 10 to 30 percent of the monetary sanctions collected.

According to the SEC’s preliminary award determination, the whistleblowers’ tips caused the SEC and CFTC to open enforcement actions against J.P. Morgan for steering clients to its own proprietary investment products without properly disclosing this preference. J.P. Morgan agreed to settle these charges for [\\$267 million with the SEC and \\$40 million with the CFTC](#).

The SEC’s Claims Review Staff recommended that two whistleblowers receive an award, one receiving 18% of the monetary sanctions collected and the other receiving 5%. The preliminary determination did not specify whether the awards would be based on the \$267 million in fines assessed by the SEC, or if the awards would also include the CFTC’s \$40 million penalty. Based on only the \$267 million fine, one whistleblower would receive an award of \$48 million, and the other would receive an award of nearly \$13.5 million. This award of more than \$61 million would far exceed the [previous largest SEC whistleblower award of \\$30 million](#).

The monetary sanctions that the SEC employs to calculate a whistleblower awards includes “any money, including penalties, disgorgement, and interest, ordered to be paid and any money deposited into a disgorgement fund or other fund pursuant to Section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)) as a result of a Commission action or a related action.”

Six whistleblowers applied for an award related to the enforcement action against J.P. Morgan. The SEC must develop a record for the award determination of each applicant. Applicants can appeal the SEC’s determination in the United States Court of Appeals within 30 days of the final decision being issued. This is likely the main reason for the lengthy delay in issuing whistleblower awards related to an enforcement action that settled in December 2015.

How the SEC Determines Award Percentage

Many factors affect the amount of an award. The SEC may **increase** the amount of an award based on the following factors:

1. The **significance of the whistleblower's tip** to the success of any proceeding brought against wrongdoers.
2. The **extent of the assistance** that the whistleblower and their legal representative provided in the SEC action or related action.
3. The SEC's law-enforcement **interest in deterring the specific violation**.
4. Whether, and the extent to which, the whistleblower **participated in their company's internal compliance and reporting systems**.

Conversely, the SEC may **reduce** the amount of an award based on these considerations:

1. If the whistleblower participated in, or was **culpable for, the securities-law violation(s)** they reported.
2. If the whistleblower **unreasonably delayed** reporting the violation(s) to the SEC.
3. If the whistleblower **interfered with their company's internal compliance and reporting systems**.

Largest SEC Whistleblower Awards to Date

The SEC issued its second-largest award, [\\$30 million](#), to an anonymous whistleblower on September 22, 2014. The third- and fourth-largest awards to date are [\\$22 million](#), issued in August 2016, and [\\$20 million](#), awarded in November 2016.

Prior to the J.P. Morgan whistleblowers' awards, the SEC issued [more than \\$154 million in awards to whistleblowers](#). In 2016 alone, the SEC Whistleblower Office awarded more than \$57 million in to whistleblowers, including six of the ten largest whistleblower awards in the program's history. Moreover, whistleblower tips enabled the SEC to recover nearly \$1 billion in monetary sanctions from wrongdoers. It certainly appears that the SEC Whistleblower Program is now firing on all cylinders.

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