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Anti-Money Laundering (AML) Whistleblower Provision Expanded to Cover Economic Sanctions Violations, Increase Incentives for Reporting

Go-To Guide:

- Amendment to Bank Secrecy Act (BSA)'s whistleblower provision makes award mandatory for successful tips and provides funding for awards, up to \$300 million.
- Amendment also expands the types of reporting subject to the bounty to include violations of U.S. economic sanctions laws.
- With these increased incentives for reporting BSA/Anti-Money Laundering and economic sanctions violations, companies may wish to review internal reporting and other compliance measures.

On Dec. 29, 2022, the Anti-Money Laundering Whistleblower Improvement Act (the “Whistleblower Improvement Act” or “Act”), enacted as part of the Consolidated Appropriations Act of 2023, amended the Bank Secrecy Act (BSA) to bolster incentives for reporting BSA violations to federal officials and to expand the scope of reportable violations to include violations of U.S. economic sanctions.

The Act expands on an [overhaul of the BSA whistleblower provision](#), codified at 31 U.S.C. § 5323, effectuated by the Anti-Money Laundering Act of 2020 (AMLA). The AMLA authorized the Secretary of the Treasury to award whistleblowers up to 30% of any monetary penalties in excess of \$1 million

recovered by the government as a result of tips about BSA violations. It also provided a new private cause of action against employers for whistleblower retaliation. But unlike the U.S. Securities and Exchange Commission whistleblower program on which it was modeled, the AMLA whistleblower provision did not set any mandatory minimum for whistleblower recovery, creating some **ambiguity about the strength of the incentive**.

The Whistleblower Improvement Act resolves that ambiguity by entitling whistleblowers to at least 10% of any monetary penalties exceeding \$1 million (unless the whistleblower is also rewarded under a second whistleblower program). The Act also creates a \$300 million “Financial Integrity Fund” to allow the Department of the Treasury to pay whistleblower awards from fines collected by Treasury and the Department of Justice without the need for further appropriations.

The Act also expands the types of tips that may be subject to these awards, to include violations of the International Emergency Economic Powers Act (IEEPA), the Trading with the Enemy Act (TWEA), and the Foreign Narcotics Kingpin Designation Act, which together are the primary statutory authority for most U.S. economic sanctions measures. With this change, the BSA Whistleblower Provision becomes an important compliance consideration not only for financial institutions subject to the BSA but also for all U.S. companies expected to comply with U.S. economic sanctions administered by the Department of Treasury’s Office of Foreign Assets Control.

The Department of the Treasury is expected to issue a rulemaking implementing the BSA whistleblower provision in the near future. In the meantime, companies implicated by these changes—which now include a wide range of entities subject to the U.S. economic sanctions regime (namely all entities subject to U.S. jurisdiction)—may wish to review the adequacy of internal compliance, reporting mechanisms, and remediation measures, to make sure they are in a position to address significant BSA/AML and sanctions lapses before they are reported to federal authorities for a bounty.

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