

**Alert | Financial Regulatory & Compliance/
Export Controls & Economic Sanctions**



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Expansive New Bank Secrecy Act, Sanctions Whistleblower Program: Department of Commerce Insights

On April 18, 2023, Department of Commerce Assistant Secretary for Export Enforcement Matthew Axelrod issued a **memorandum** (Memorandum) that, while primarily focused on enforcement of export control restrictions, offered some noteworthy insights into the Bank Secrecy Act's **newly overhauled whistleblower program**. That whistleblower program, **originally enacted as part of the Anti-Money Laundering Act of 2020 (AMLA)**, was amended in early 2023 to authorize whistleblower awards for tips about not only Bank Secrecy Act (BSA) violations but also economic sanctions violations.

In his Memorandum, Assistant Secretary Axelrod identifies the BSA whistleblower program as an important means by which federal authorities seek to encourage disclosure of information that may lead to enforcement actions under the BSA, economic sanctions programs, or even export control regulations. Of note, the Memorandum conspicuously highlights the fact that whistleblower awards are available to individuals located abroad, a feature that may be particularly significant for companies with transnational operations and/or that engage in international financial transactions.

The Memorandum also notes that whistleblowers may be entitled to a percentage of recovery—set by statute at 10-30%—of any export control penalties that result from a tip, provided that the information also results in a qualifying enforcement action under the BSA or economic sanctions laws.

The BSA/sanctions whistleblower program was modeled after the SEC's successful whistleblower program under Dodd-Frank, which has resulted in more than \$6 billion in monetary sanctions and **\$1.3 billion in whistleblower awards since its inception.**

Given the signals that federal authorities are mobilizing to act on whistleblower tips for BSA and sanctions violations—just as the SEC mobilized in the wake of the Dodd-Frank whistleblower program—a robust sanctions and (if applicable) BSA and export control compliance program is essential. Further, non-U.S. employees, customers, and counterparties are now incentivized to report BSA and sanctions violations to U.S. authorities, creating additional risk for companies.

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