

## SEC approves new rewards for whistleblowers

By David S. Hilzenrath, Published: May 25

Blow the whistle on financial fraud, earn valuable rewards.

The Securities and Exchange Commission approved rules Wednesday [that could make it highly lucrative for Wall Street whistleblowers and other corporate insiders to alert the agency to securities violations.](#)

The agency was acting at the behest of Congress and President Obama, who mandated the rewards last year in legislation responding to the mortgage meltdown.

Under the rules, whistleblowers will be entitled to receive 10 percent to 30 percent of the money they help the SEC collect through enforcement actions.

Corporations had [lobbied intensely for rules that would impose constraints on whistleblowers.](#) But a majority of SEC commissioners rejected pleas by business groups that, before going to the SEC, whistleblowers should be required to notify the companies they are accusing of wrongdoing and give them a chance to address the allegations.

“Today’s rules are intended to break the silence of those who see a wrong,” SEC Chairman Mary L. Schapiro said.

“For an agency with limited resources like the SEC, I believe it is critical to be able to leverage the resources of people who may have firsthand information about potential violations of the law,” Schapiro said.

Schapiro, an independent, and two Democratic commissioners voted for the rules over the opposition of two Republican commissioners.

Republican commissioner Kathleen Casey said that, by allowing whistleblowers to bypass companies’ internal compliance programs and go straight to the SEC, the agency might allow problems to become more serious. She said the SEC was overestimating its ability to sift through complaints from tipsters.

The issue was one of the most contentious that the SEC has faced in its response to the financial crisis of 2008. It was also a bellwether of the agency’s direction under Schapiro, an Obama appointee who previously headed a self-regulatory organization for Wall Street firms.

Some observers expected the SEC, whipsawed by competing interests, to chart more of a middle course or to side outright with corporate groups.

House Republicans, who hold power over the agency's purse strings, added to the pressure on the SEC to tilt toward the business community.

Instead, on key points, the corporate wish list was rebuffed.

Whistleblower advocates said they were surprised and relieved by the outcome.

"It was a great day for whistleblowers," said lawyer Stephen M. Kohn, executive director of the National Whistleblowers Center. "The SEC refused to buckle under tremendous pressure from Wall Street lobbyists, led by the Chamber of Commerce, who worked overtime trying to undermine historic corporate whistleblower protections."

If the business lobby lost, it might have been because it overreached and discredited itself by arguing that whistleblowers should be required to first contact the very companies they are accusing of wrongdoing, Kohn said.

The U.S. Chamber of Commerce, a chief critic of the proposal, condemned the vote.

"This rule will make it harder and slower to detect and stop corporate fraud," leaders of the group said in a statement. "Not informing the company of a potential fraud and waiting for the SEC to act is the equivalent of not calling the firefighters down the street to put out a raging fire and instead calling the lawyers from the next town to sue over the fire."

Business groups had argued that the SEC would be overwhelmed with tips, many of them unfounded or irrelevant to securities enforcement, such as complaints based on personnel disputes.

But SEC enforcement director Robert Khuzami told commissioners Wednesday that he saw no evidence of such problems. Rather, the agency has already seen an increase in high-quality tips with detailed supporting information, Khuzami said.

SEC enforcement official Stephen Cohen illustrated the point by noting that a whistleblower recently provided a road map to a possible fraud that saved the agency six to 12 months of investigative work and revealed wrongdoing that the agency might not otherwise have detected.

The rewards could [deter executives from committing fraud](#), said lawyer Dean Zerbe, who represents informants.

"Knowing that whistleblowers are being encouraged to dime them out will make the next [Bernard] Madoff think twice and three times before they go down a bad path," Zerbe said.

Perhaps the biggest consolation for corporations is that, when determining the size of a reward, the SEC could give whistleblowers credit for taking their allegations to the firms' internal compliance programs.

Some companies argued that corporate officers, directors and compliance personnel — people responsible for fielding and acting on internal complaints — should be ineligible for rewards.

The SEC banned such personnel from the program, but then added major exceptions: Those employees could still alert the SEC and receive bounties if they believe such disclosure might prevent substantial injury to the company or its investors, or if they think the company is acting in a way that would impede an investigation.