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April 07, 2020

Are Rewards Necessary for Whistleblowers in Europe?

Sarah Hofmann

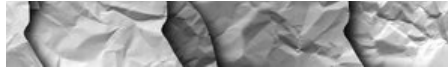
With each new edition, the ACFE's *Report to the Nations* shows the importance of tips in detecting fraud. In the upcoming 2020 edition of the report, 43% of the fraud cases were



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discovered through tips, and in



organizations with fraud

awareness training and formal reporting mechanisms, the number rose to 56%. Establishing a hotline, anonymous web form, email address or other tip reporting mechanism are often inexpensive, and highly effective, ways to detect fraud in organizations of all sizes and industries. But what use is a tip reporting tool if no one uses it?

Stephen Kohn spends a lot of his time pondering this question. Kohn is widely recognized as one of the U.S.'s leading whistleblower and qui tam attorneys, and currently represents Danske Bank whistleblower Howard Wilkinson. In his keynote address at the 2020 *ACFE Fraud Conference Europe*, presented virtually, he asked attendees, “How do you create a whistleblower program where most employees will report?”

Kohn recapped the Danske Bank fraud scandal, and Wilkinson's whistleblowing, as a prime example of how he feels current European whistleblower laws are lacking. Wilkinson first raised flags of money laundering and corruption in Danske Bank's Estonian branch in 2014, however his complaints weren't formally investigated by the bank until late 2017 — and regulatory bodies didn't step in until 2018. Once the fraud was publicized, it's estimated that there was approximately \$240 billion laundered through the branch from 2007 to 2014.

“We've seen this time and time again, where the whistleblower allegations are not properly investigated,” said Kohn. “What corruption was paid for with all that money? And Danske Bank could have stopped that in 2014.”

One area where Kohn thinks European whistleblower laws have missed the mark is that most of them are written with a focus on



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protecting the whistleblower from retaliation, while there isn't as much emphasis on the content of the information the whistleblower brings or on monetary rewards. "Why focus a whistleblower case on a discrimination case?" Kohn asked. "Why not focus the whistleblower case on motivating an insider?"

Kohn believes that U.S. whistleblower laws, many of which he helped set legal precedent for, are more effective for encouraging whistleblowers to come forward. The emphasis on many of these laws is that the whistleblower will receive monetary compensation based on providing original information that leads to a successful enforcement action. Current laws state that whistleblowers are entitled to a reward between 10-30% of the collected proceeds triggered by their disclosures.

"If your compensation is predicated on giving the government actual, high-quality evidence ... you are motivated to turn in these high-quality tips," said Kohn. By 2017, sanctions from whistleblower cases had totaled more than \$40.5 billion over the years, and whistleblower rewards paid out from those cases were more than \$6.58 billion. "These laws work ... and they pay."

Although Kohn was critical of European and other international whistleblower laws, he did stress that any company that does business in the U.S. is likely to fall under the reward laws in place, even if they are headquartered in another country. "The U.S. whistleblower laws have significant transnational application," he said. He encourages all potential whistleblowers to research their laws and to not be afraid to contact lawyers, or the [National Whistleblower Center](#), of which he is the Chairman of the Board, for guidance.

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Fabio Menis 20 hours ago · 0 Likes

Interesting article... I guess it's a matter of culture and maturity of the overall society. In lots of European countries, I am from Italy, the whistleblower is seen as a sort of "spy", a "negative" person, someone who puts his nose in somebody else's business. First need is to protect those people. Very often, in Italy they are fired, despite of current regulation. Giving them a reward could be a very good idea, but until we will not be able to have a cultural change... whistleblowers will be seen as "the wrong ones"...



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