

[Stephen M. Kohn](#)

Founding Partner | [Kohn, Kohn and Colapinto, LLP](#)

Chairman of the Board of Directors | National Whistleblower Center

# **Lessons from the Danske Bank Case: Effective Transnational Whistleblowing**

2020 ACFE Conference Europe

April 6, 2020





*“Going after waste, fraud, and abuse without whistleblowers is about as useful as harvesting acres of corn with a pair of rusty old scissors”*

— Senator Charles Grassley, Chairman of Senate Judiciary Committee, speech given on National Whistleblower Day (July 30, 2018) --- Watch the [Video](#) --- Read the [Speech](#)



## *The whistleblower wrote in his first disclosure:*

*“[A] customer . . . filed false financial accounts.”*

*“‘[T]he bank knowingly continued to deal with a company that had committed a crime.’”*

*“‘The bank continued dealing with [a] company even after it had committed another crime by submitting amended false accounts.’”*

—Bruun & Hjejle, “Report on the Non-Resident Portfolio at Danske Bank’s Estonian Branch” (Sept. 19, 2018)



*The whistleblower reported to management that one of the suspicious accounts “‘apparently . . . included the Putin family and the FSB’, that is the Russian Federal Security Service).”*

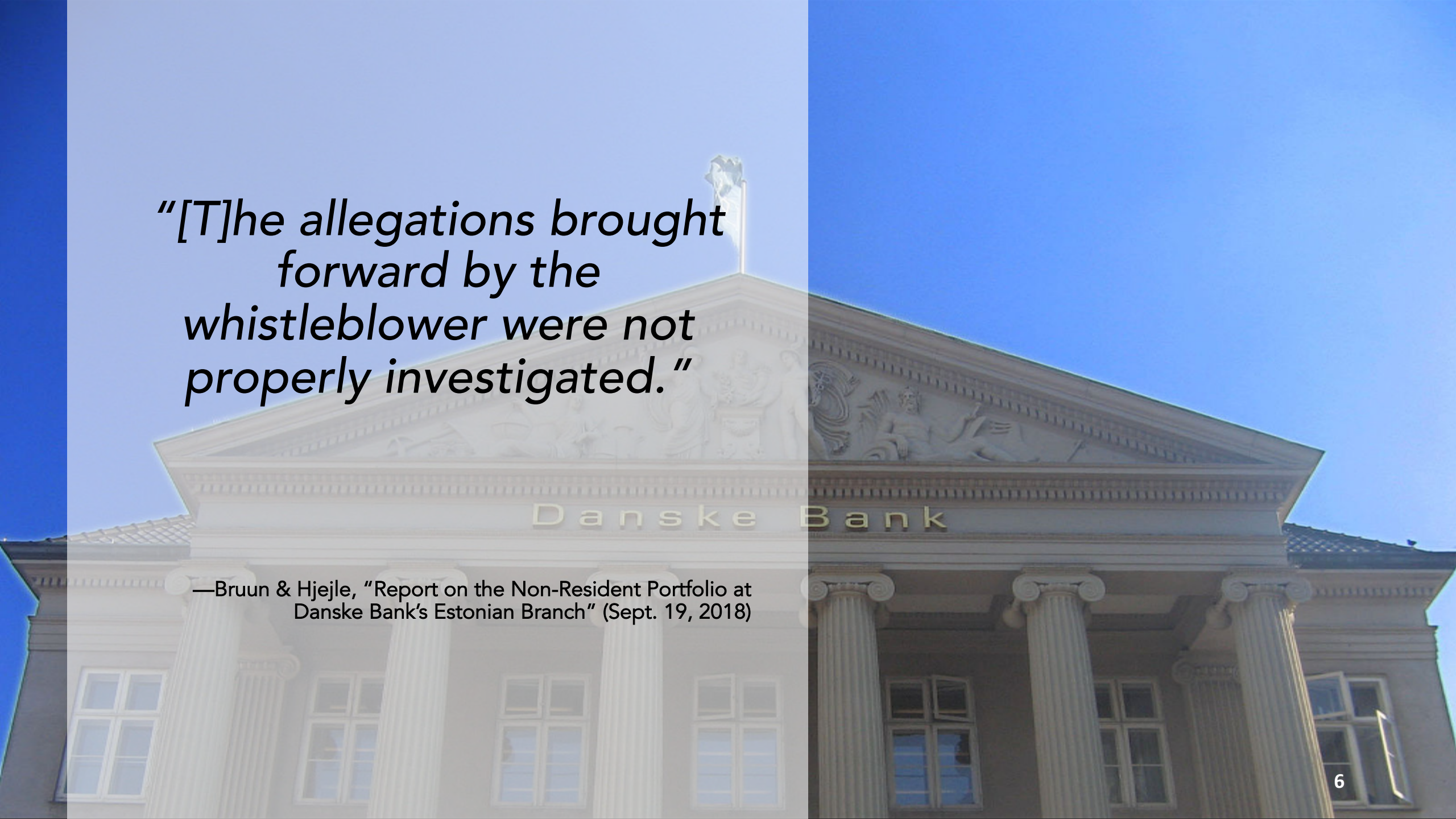
—Bruun & Hjejle, “Report on the Non-Resident Portfolio at Danske Bank’s Estonian Branch” (Sept. 19, 2018)



*“[M]ajor deficiencies in controls and governance made it possible to use Danske Bank’s branch in Estonia for criminal activities such as money laundering.”*

—Bruun & Hjejle, “Report on the Non-Resident Portfolio at Danske Bank’s Estonian Branch” (Sept. 19, 2018)





*"[T]he allegations brought forward by the whistleblower were not properly investigated."*

—Bruun & Hjejle, "Report on the Non-Resident Portfolio at Danske Bank's Estonian Branch" (Sept. 19, 2018)



*“There was no reporting to authorities.”*

—Bruun & Hjejle, “Report on the Non-Resident Portfolio  
at Danske Bank’s Estonian Branch” (Sept. 19, 2018)



*“It was a whistleblower . . . that made [the Bank] realize that AML procedures . . . had been manifestly insufficient and inadequate and that all three lines of defense . . . had failed.”*

—Bruun & Hjejle, “Report on the Non-Resident Portfolio at Danske Bank’s Estonian Branch” (Sept. 19, 2018)



*After the Bank failed to take corrective action, the whistleblower voluntarily resigned for ethical reasons. His identity was eventually leaked to the news media in violation of law.*





## The Problem Facing Fraud Detection

*“Honest behavior is not rewarded . . . Given [the] costs [of whistleblowing] the surprising part is not that most employees do not talk, it is that some talk at all.”*

— Alexander Dyck, et al., “[Who Blows the Whistle on Corporate Fraud?](#)” The University of Chicago Booth School of Business Working Paper No. 08-22 (2009).

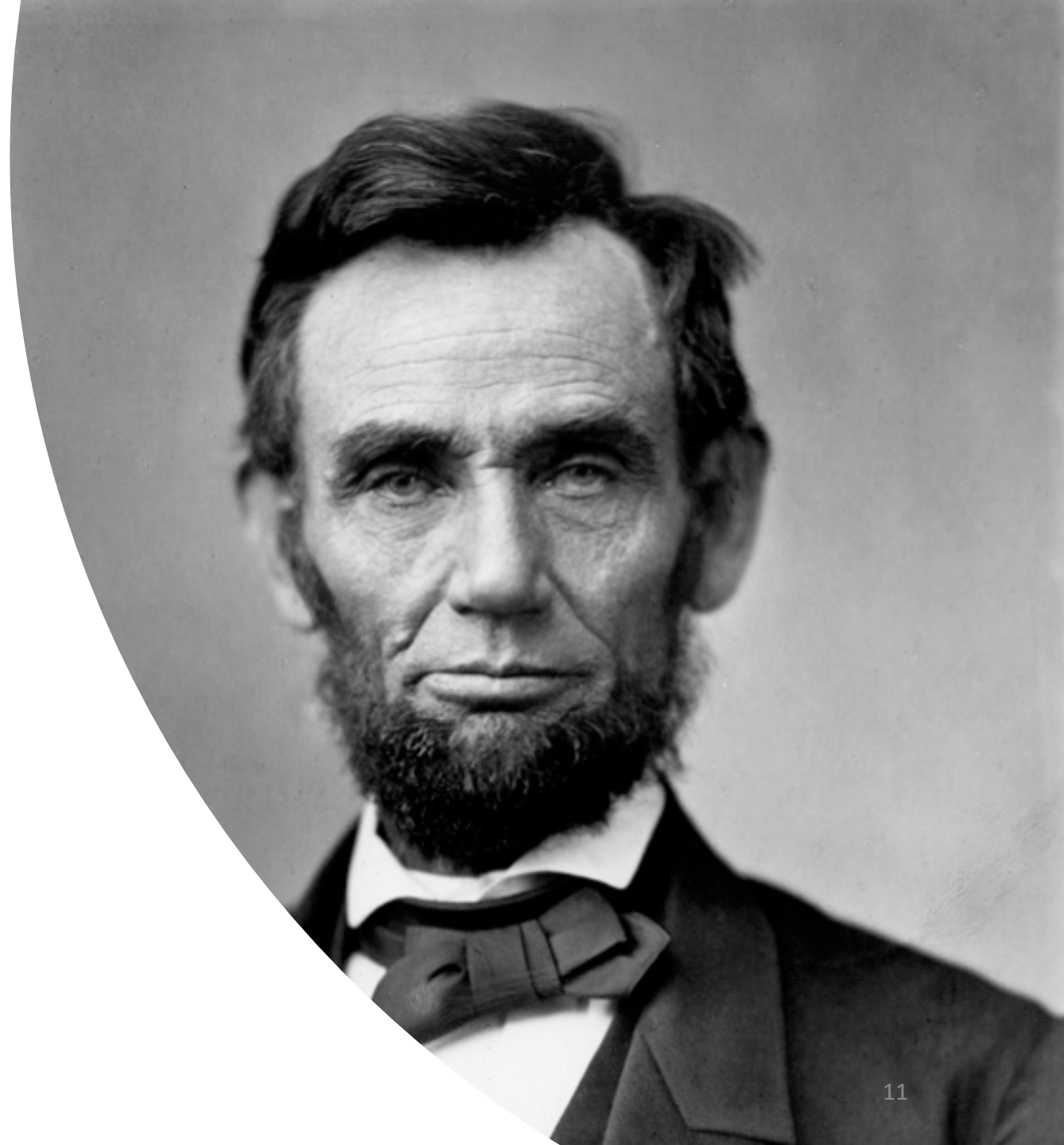
# How to Stop the Next Danske Bank Scandal:

## *Qui Tam* - "The Lincoln Law"

On March 2, 1863, President Abraham Lincoln signed the original whistleblower [qui tam reward law](#), the False Claims Act ("FCA"), targeting fraud in government contracting.

It was modernized in 1986.

The FCA incentivizes reporting and is the model for all current whistleblower reward laws.







## The Framework for qui tam and Reward Laws

Initial disclosures are filed with the agency responsible for enforcing the whistleblower law. FCA claims are initially filed under “seal” in federal court

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Emphasis is on the quality of the information, not on a whistleblower’s employment discrimination case.

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Whistleblowers who provide original information that leads to a successful enforcement action are entitled to a **mandatory reward** under the modern reward laws of between 10-30% of the collected proceeds triggered by their disclosures.

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Mandatory rewards available under the [False Claims Act](#), [Dodd-Frank Act](#), [Tax and Money Laundering](#), [Foreign Corrupt Practices Act](#), [Securities and Exchange Act](#) and [Commodity Exchange Act](#).

# THE LAWS



## False Claims Act | 31 U.S.C. § 3729-3732

Rewards for reporting fraud in government contracting, procurement or failure to pay mandatory fees, including customs violations.



## Foreign Corrupt Practices Act | 15 U.S.C. §§ 78m, 78dd, 78ff

Rewards to whistleblowers who provide original information about bribes paid to foreign government officials.



## Securities and Exchange Act | 33 U.S.C. § 1908(a)

Rewards to individuals who provide information to the SEC which leads to the recovery of monetary sanctions which exceed \$1 million.



## Commodity Exchange Act | 7 U.S.C. § 26

Rewards to qualified persons who provide information concerning violations of the Commodities laws,, including violations of money laundering laws.



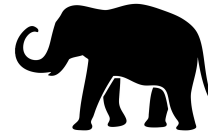
## Act to Prevent Pollution from Ships | 33 U.S.C. § 1908(a)

Permits federal courts to grant rewards to whistleblowers whose disclosure pollution on the high seas



## Fish and Wildlife Improvement Act | 16 U.S.C. § 7421(c)(3)

Rewards for reporting violations of any wildlife protection laws enforced by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service. Rewards can be paid for information prior to a prosecution.



## Endangered Species Act | 15 U.S.C. § 78u-6 and Lacey Act | 16 U.S.C. § 3375(d)

Permits the Departments of Agriculture, Commerce, Interior, and Treasury to reward whistleblowers who disclose violations of the Endangered Species Act.



## Internal Revenue Act | 26 U.S.C. § 7623

Rewards to IRS whistleblowers who report tax frauds and underpayments of taxes. Covers all laws investigated by the IRS, including international money laundering.



The False Claims Act whistleblower law is “the most powerful tool the American people have to protect the government from fraud.”

— Former Assistant Attorney General Stuart Delery - [Remarks](#) at American Bar Association’s 10th National Institute on the Civil False Claims Act and Qui Tam Enforcement (2014)

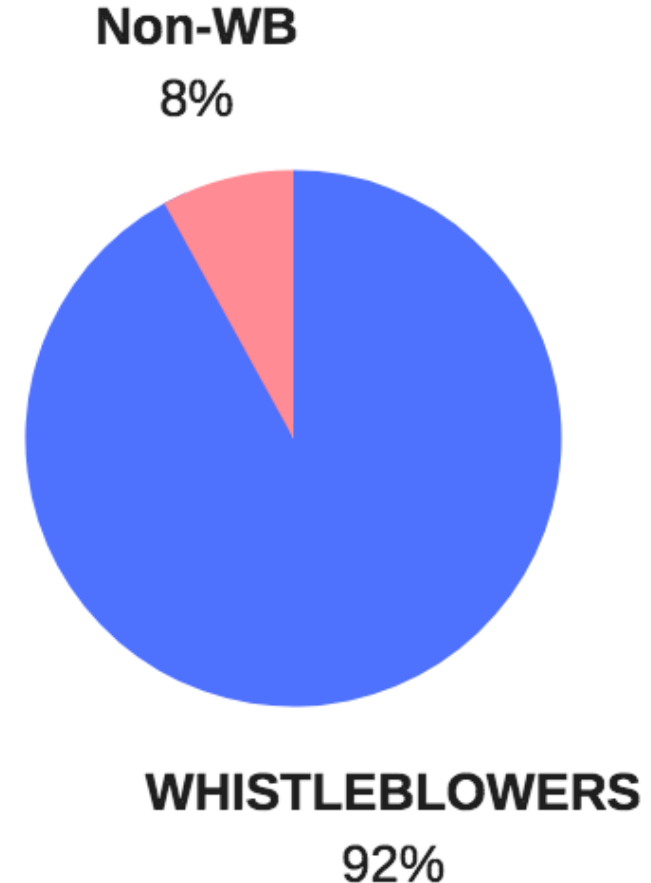




## A Whistleblower Program Delivers Significant Benefits

- In FY 2017, the U.S government recovered over \$3.7 billion through its civil fraud program.
- Whistleblowers were directly responsible for reporting of over \$3.4 billion of these recoveries.
- Whistleblowers were the source of the detection of 91.8% of all civil fraud recovered in FY 2017.

Source: [U.S. Department of Justice](#)



In 2017, of the \$3.4 billion recovered through the FCA and as a result of whistleblower assistance, \$392 million (11.5%) was awarded to whistleblowers.

# FALSE CLAIMS ACT FRAUD STATISTICS OVERVIEW

## FY 1986 - FY 2017

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12/19/2017

FRAUD STATISTICS - OVERVIEW  
October 1, 1986 - September 30, 2017  
Civil Division, U.S. Department of Justice

FY	NEW MATTERS <sub>1</sub>		SETTLEMENTS AND JUDGMENTS <sub>2</sub>					RELATOR SHARE AWARDS <sub>3</sub>		
	NON QUI TAM	QUI TAM	NON QUI TAM	QUI TAM			TOTAL QUI TAM AND NON QUI TAM	WHERE U.S. INTERVENED OR OTHERWISE PURSUED	WHERE U.S. DECLINED	TOTAL
				TOTAL	WHERE U.S. INTERVENED OR OTHERWISE PURSUED	WHERE U.S. DECLINED				
1987	343	30	86,479,949	0	0	0	86,479,949	0	0	0
1988	210	43	173,287,663	2,309,354	33,750	2,343,104	175,630,767	88,750	8,438	97,188
1989	224	87	197,202,180	15,111,719	1,681	15,113,400	212,315,580	1,446,770	200	1,446,970
1990	243	72	189,564,367	40,483,367	75,000	40,558,367	230,122,734	6,590,936	20,670	6,611,606
1991	234	84	270,530,467	70,384,431	69,500	70,453,931	340,984,398	10,667,537	18,750	10,686,287
1992	285	114	137,958,206	133,949,447	994,456	134,943,903	272,902,109	24,121,648	259,784	24,381,432
1993	304	138	181,945,576	183,643,787	6,603,000	190,246,787	372,192,363	27,576,235	1,766,902	29,343,137
1994	280	216	706,022,897	379,018,205	2,822,323	381,840,528	1,087,863,425	69,453,350	838,897	70,292,246
1995	233	269	269,989,642	239,024,292	1,635,000	240,659,292	510,648,934	45,162,296	465,800	45,628,096
1996	185	340	247,357,271	124,361,203	13,522,433	137,883,636	385,240,908	22,119,619	3,731,978	25,851,597
1997	186	547	465,568,061	621,919,274	6,021,200	627,940,474	1,093,508,535	65,857,419	1,658,485	67,515,904
1998	120	468	151,435,794	438,834,846	30,248,075	469,082,921	620,518,715	70,264,372	8,486,645	78,751,017
1999	140	493	195,390,485	492,924,785	5,067,503	497,992,288	693,382,773	63,018,064	1,374,487	64,392,552
2000	95	363	367,887,197	1,208,370,688	1,688,957	1,210,059,645	1,577,946,841	183,679,377	375,143	184,054,520
2001	85	311	494,496,974	1,215,525,916	128,587,151	1,344,113,067	1,838,610,042	187,590,470	30,701,881	218,292,350
2002	61	319	119,598,292	1,078,174,023	25,786,140	1,103,960,162	1,223,558,454	161,377,822	4,582,319	165,960,141
2003	92	334	711,098,299	1,534,862,352	5,185,911	1,540,048,263	2,251,146,563	337,307,857	1,382,741	338,690,598
2004	111	432	115,656,023	561,717,502	9,261,879	570,979,382	686,635,404	110,224,220	2,376,128	112,600,348
2005	105	406	276,914,983	1,149,047,524	7,481,593	1,156,529,117	1,433,444,099	168,580,543	2,031,695	170,612,237
2006	71	385	1,712,459,257	1,491,105,499	22,711,363	1,513,816,862	3,226,276,119	219,976,072	5,647,836	225,623,908
2007	129	365	564,826,844	1,251,726,955	160,246,894	1,411,973,849	1,978,800,693	192,888,212	4,616,899	197,505,111

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FRAUD STATISTICS - OVERVIEW  
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Civil Division, U.S. Department of Justice

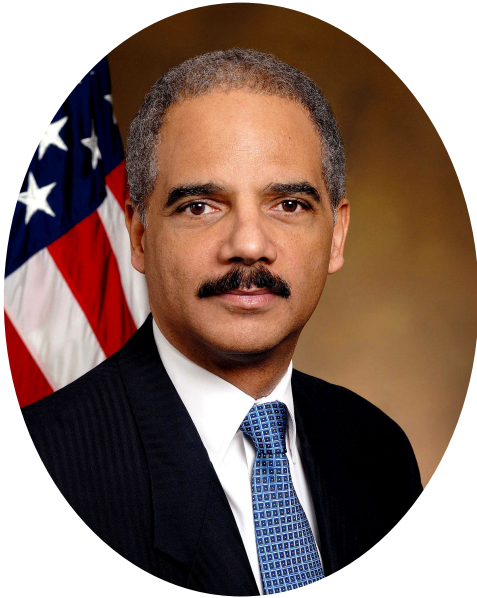
FY	NEW MATTERS <sub>1</sub>		SETTLEMENTS AND JUDGMENTS <sub>2</sub>					RELATOR SHARE AWARDS <sub>3</sub>		
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				TOTAL	WHERE U.S. INTERVENED OR OTHERWISE PURSUED	WHERE U.S. DECLINED				
2008	161	379	312,193,480	1,045,582,229	12,678,936	1,058,261,165	1,370,454,645	201,682,144	2,997,615	204,679,759
2009	132	433	469,334,681	1,963,356,256	33,776,480	1,997,132,735	2,466,467,417	249,567,135	9,684,147	259,251,282
2010	140	576	647,383,493	2,280,378,123	109,778,613	2,390,156,737	3,037,540,230	370,856,551	30,915,991	401,772,542
2011	125	634	241,365,995	2,648,552,414	173,888,703	2,822,441,117	3,063,807,112	510,875,463	49,041,606	559,917,069
2012	144	652	1,608,112,862	3,344,478,500	45,248,343	3,389,726,844	4,997,839,706	436,125,743	12,711,743	448,837,485
2013	101	756	169,126,772	2,868,519,362	127,348,056	2,995,867,418	3,164,994,190	528,312,018	30,449,937	558,761,955
2014	98	715	1,676,564,226	4,386,325,409	81,378,451	4,467,703,859	6,144,268,085	696,768,578	14,868,000	711,636,578
2015	111	639	732,432,286	1,896,482,996	512,357,184	2,408,840,181	3,141,272,467	344,083,870	137,955,425	482,039,295
2016	147	706	1,856,329,432	2,815,841,067	106,098,069	2,921,939,136	4,778,268,567	497,141,013	29,658,600	526,799,613
2017	125	674	265,583,089	3,011,269,763	425,767,335	3,437,037,099	3,702,620,187	349,365,587	43,593,801	392,959,388
TOTAL	5,020	11,980	15,614,096,744	38,493,281,288	2,056,363,980	40,549,645,268	56,163,742,012	6,152,769,671	432,222,541	6,584,992,211

Sanctions from  
whistleblower cases

Rewards paid to  
whistleblowers

2017	125	674	265,583,089	3,011,269,763	425,767,335	3,437,037,099	3,702,620,187	349,365,587	43,593,801	392,959,388
TOTAL	5,020	11,980	15,614,096,744	38,493,281,288	2,056,363,980	40,549,645,268	56,163,742,012	6,152,769,671	432,222,541	6,584,992,211

Source: [U.S. Department of Justice](#)



*"[T]he False Claims Act has provided ordinary Americans with essential tools to combat fraud . . . their impact has been nothing short of profound."*

— Former Attorney General Eric Holder, U.S. Department of Justice, [remarks at the 25th anniversary of the False Claims Act](#) (January 31, 2012).





# INTERNATIONAL APPLICATIONS OF U.S. WHISTLEBLOWER REWARD LAWS

# False Claims Act / Qui Tam

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Numerous foreign companies have been sanctioned under the False Claims Act

- Toyo Ink (Japan) — \$45 million
- Infosys Technologies (India) — \$34 million
- Royal Dutch Shell (Netherlands) — \$110 million
- BNP Paribas (France) — \$80 million
- Ranbaxy Laboratories (India) — \$150 million
- GlaxoSmithKline (Great Britain) — \$750 million
- Deutsche Bank (Germany) — \$202 million





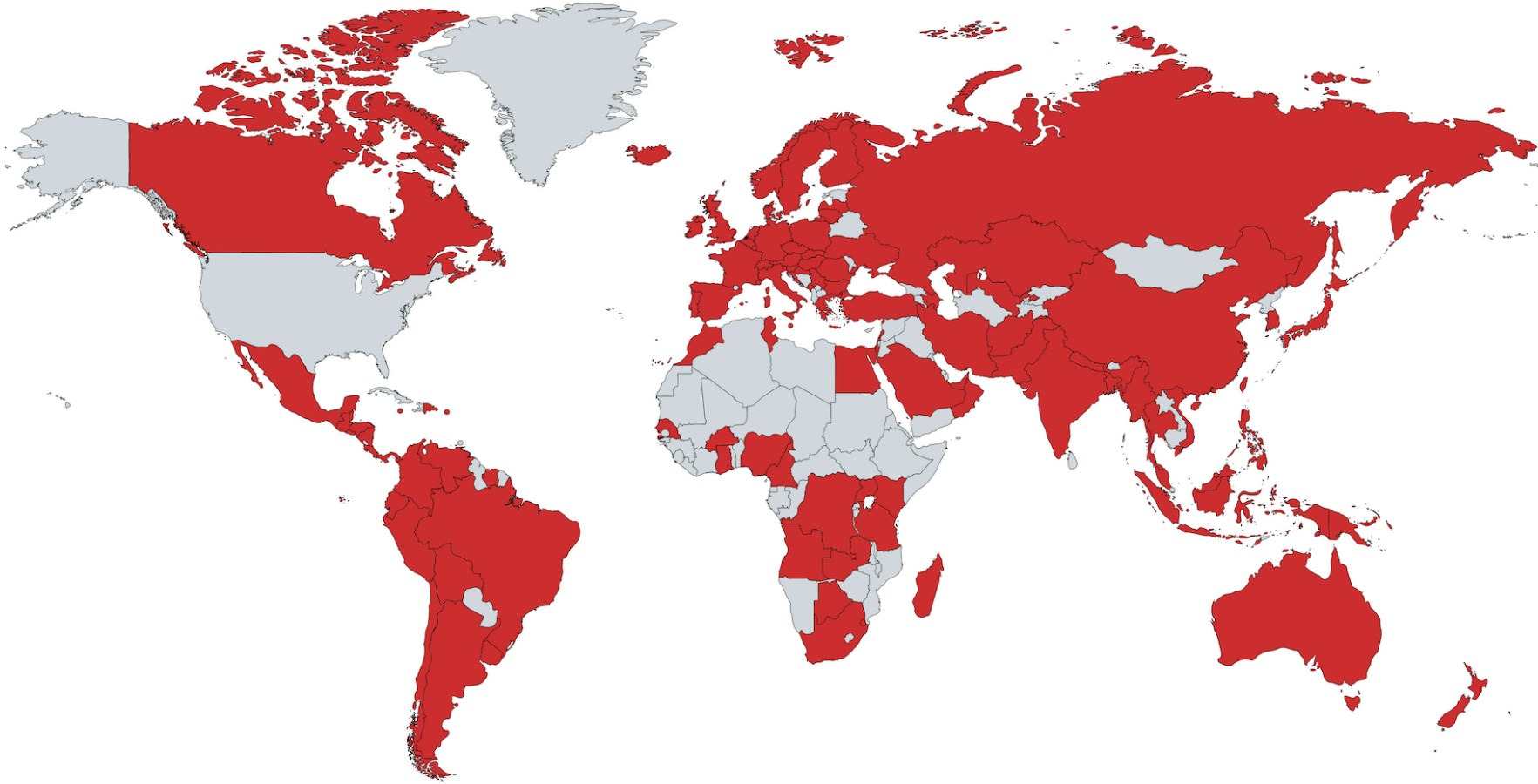


## Foreign Corrupt Practices Act (FCPA)

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- Since 2011, 2,655 whistleblowers from 113 countries outside the U.S. have filed claims under the Foreign Corrupt Practices Act whistleblower reward provision.
- Over \$40 million has been paid to non-U.S. citizens by the SEC and the Commodity Futures Trading Commission

The FCPA is often known as the law used to prosecute bribes paid abroad.



International Tips Received by U.S. Securities and Exchange Commission, 2011 - 2020



*“ . . . it makes no difference whether . . . the claimant was a foreign national, the claimant resides overseas, the information was submitted from overseas, or the misconduct comprising the U.S. securities law violation occurred entirely overseas.”*

— Kevin M. O'Neill, Deputy Secretary, Securities and Exchange Commission, [Order](#)  
Determining Whistleblower Award Claim





*“Whistleblowers, whether they are located in the U.S. or abroad, provide a valuable service to investors and help us stop wrongdoing... This award recognizes the continued, important assistance provided by the whistleblower throughout the course of the investigation.”*

— Jane Norberg, Chief of the Office of the Whistleblower, Securities and Exchange Commission, [Press Release](#) on award to overseas whistleblower



*The SEC “whistleblower program . . . has rapidly become a tremendously effective force-multiplier, generating high quality tips, and in some cases virtual blueprints laying out an entire enterprise, directing us to the heart of the alleged fraud.”*

— Chairman Mary Jo White, Securities and Exchange Commission, [Remarks at the Securities Enforcement Forum](#), Washington DC (October 2013)

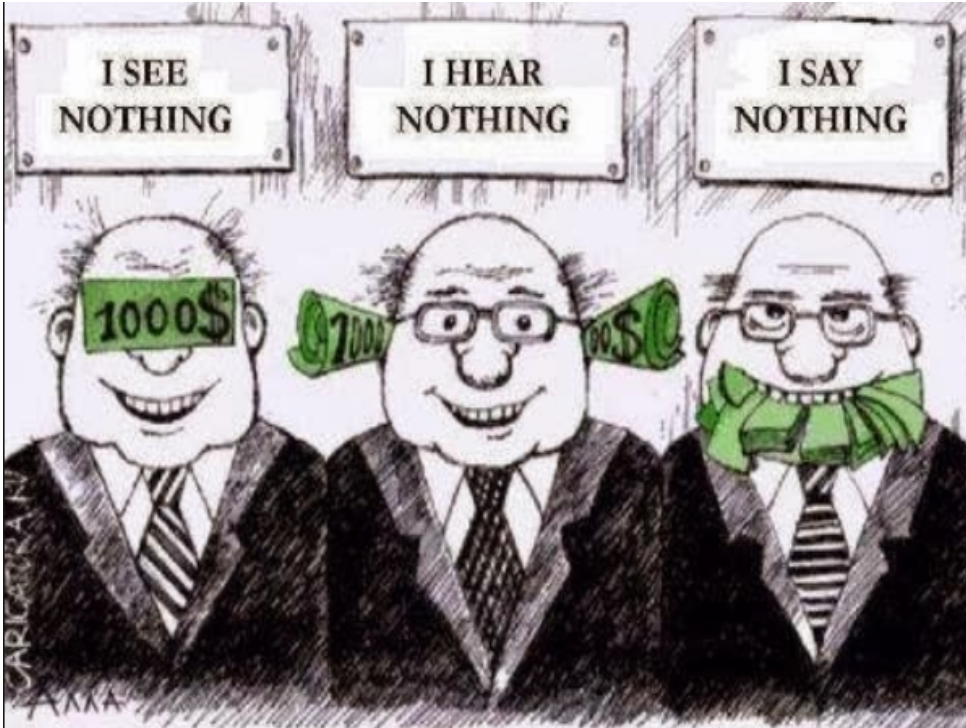
# Example of FCPA Cases for which SEC Whistleblowers are Eligible for Rewards

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- [Petroleo Brasileiro](#) (Brazil based company) — \$1.78 billion
- [Quad/Graphics](#) (Bribes paid in Peru and China) — \$10 million sanction
- [Telefonica Brasil](#) (World Cup bribery) — \$4.125 million
- [Fresenius Medical](#) (German based company) — \$231 million
- [Sanofi](#) (corrupt payments in Kazakhstan and Middle East) — \$25 million
- [Credit Suisse](#) (Swiss based company corrupt payments in Asia-Pacific) — \$77 million
- [Telia](#) (Sweden-based company; bribery in Uzbekistan) — \$965 million
- [SQM](#) (Chilean based company) — \$30 million
- [Biomet](#) (Polish based company) — \$30 million



## Foreign Corrupt Practices Act 15 U.S.C. §§ 78m, 78dd, 78ff



The FCPA prohibits publicly-traded corporations, both U.S. and international, from paying bribes to foreign officials and mandates proper financial recordkeeping.

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U.S. person includes companies traded on international stock exchanges that permit U.S. citizen to invest through ADRs

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The FCPA established U.S. jurisdiction for bribes paid in foreign countries by foreign nationals to foreign government officials.

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FCPA whistleblowers can obtain financial rewards even if bribes are paid in a foreign country and the whistleblower is a foreign national.

# International Scope of the Commodity Exchange Act's Whistleblowers Reward Law

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The Commodity Exchange Act covers must companies that participate in the international commodity markets and is not limited to publicly traded corporations. Some of the international companies sanctioned by the Commodity Futures Trading Commission which rewards are eligible are:

- [Société General](#)
- [Commerzank AG](#)
- [Statoil ASA](#)
- [JSC VTB Banks](#)
- [Weidong Ge](#)





## Commodities Future Trading Commission

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- In 2018, the first foreign whistleblower was awarded under the CFTC rewards program.
- Total awards in FY 2018 were over \$75 million.







## IRS Whistleblower Law

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- Tax whistleblowers were paid \$778 million in awards between [FY 2012 to FY 2018](#).
- Whistleblowers were the critical source of information on [policing offshore Swiss banking violations](#).
- Every known U.S. secret Swiss bank account was closed. Over \$16 billion was directly recovered in fines and penalties. 50,000 U.S. taxpayers entered the voluntary disclosure program.
- 2018 amendment to the IRS whistleblower law covers international money laundering cases investigated by IRS criminal unit.





## IRS/Tax/Bank Secrecy-FBAR Whistleblower Law

*“The IRS’s serious efforts to combat offshore tax evasion... [were] brought to our attention... by whistleblowers...”*

— John A. Koskinen, Commissioner of the IRS, [Remarks](#) before the U.S. Council for International Business-OECD International Tax Conference





## International Application of IRS Whistleblower Law

### NON-PROSECUTION AGREEMENTS EXECUTED UNDER THE SWISS BANK PROGRAM

NUMBER	BANK NAME	DATE	PRESS RELEASE	NPA and Attachments
1	BSI SA	3/30/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (176.16 KB)</a> <a href="#">Statement of Facts (209.47 KB)</a> <a href="#">Board Resolution (64.37 KB)</a>
2	Vadian Bank AG	5/8/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (406.6 KB)</a>
3	Finter Bank Zurich	5/15/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (24.14 MB)</a>
4	Société Générale Private Banking (Lugano-Svizzera)	5/28/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (403.13 KB)</a>
5	MediBank AG	5/28/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (315.33 KB)</a>
6	LBBW (Schweiz) AG	5/28/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (338.89 KB)</a>
7	Scobag Privatbank AG	5/28/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (396.38 KB)</a>
8	Rothschild Bank AG	6/3/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (444.58 KB)</a>
9	Banca Credinvest SA	6/3/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (506.47 KB)</a>
10	Société Générale Private Banking (Suisse) SA	6/9/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (433.58 KB)</a>
11	Berner Kantonalbank AG	6/9/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (411.23 KB)</a>
12	Bank Linth LLB AG	6/19/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (566.31 KB)</a>
13	Bank Sparhafen Zurich AG	6/19/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (439.96 KB)</a>
14	Ersparniskasse Schaffhausen AG	6/26/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (3.16 MB)</a>
15	Privatbank Von Graffenried AG	7/2/15	<a href="#">Press Release</a>	<a href="#">NPA and SOF (5.13 MB)</a>



16	Banque Pasche SA	7/9/15	<a href="#">Press Release</a>	NPA and SOF (4.05 MB)
17	ARVEST Privatbank AG	7/9/15	<a href="#">Press Release</a>	NPA and SOF (3.84 MB)
18	Mercantil Bank (Schweiz) AG	7/16/15	<a href="#">Press Release</a>	NPA and SOF (336.05 KB)
19	Banque Cantonale Neuchâteloise	7/16/15	<a href="#">Press Release</a>	NPA and SOF (353.24 KB)
20	Nidwaldner Kantonalbank	7/16/15	<a href="#">Press Release</a>	NPA and SOF (383.84 KB)
21	SB Saanen Bank AG	7/23/15	<a href="#">Press Release</a>	NPA and SOF (4.14 MB)
22	Privatbank Bellerive AG	7/23/15	<a href="#">Press Release</a>	NPA and SOF (3.19 MB)
23	PKB Privatbank AG	7/30/15	<a href="#">Press Release</a>	NPA and SOF (3.19 MB)
24	Falcon Private Bank AG	7/30/15	<a href="#">Press Release</a>	NPA and SOF (3.97 MB)
25	Credito Privato Commerciale in liquidazione SA	7/30/15	<a href="#">Press Release</a>	NPA and SOF (2.24 MB)
26	Bank EKI Genossenschaft	8/3/15	<a href="#">Press Release</a>	NPA and SOF (5.59 MB)
27	Privatbank Reichmuth & Co.	8/6/15	<a href="#">Press Release</a>	NPA and SOF (3.49 MB)
28	Banque Cantonale du Jura SA	8/6/15	<a href="#">Press Release</a>	NPA and SOF (4.57 MB)
29	Banca Intermobiliare di Investimenti e Gestioni (Suisse) SA	8/6/15	<a href="#">Press Release</a>	NPA and SOF (3.62 MB)
30	Bank Zweiplus Ag	8/20/15	<a href="#">Press Release</a>	NPA and SOF (3.37 MB)
31	Banca dello Stato del Cantone Ticino	8/20/15	<a href="#">Press Release</a>	NPA and SOF (3.88 MB)
32	Hypothekarbank Lenzburg AG	8/27/15	<a href="#">Press Release</a>	NPA and SOF (392.71 KB)
33	Schroder & Co. Bank AG	9/3/15	<a href="#">Press Release</a>	NPA and SOF (4.04 MB)
34	Valiant Bank AG	9/10/15	<a href="#">Press Release</a>	NPA and SOF (13.3 MB)
35	Bank La Roche & Co AG	9/15/15	<a href="#">Press Release</a>	NPA and SOF (344.31 KB)
36	St. Galler Kantonalbank AG	9/17/15	<a href="#">Press Release</a>	NPA and SOF (1.49 MB)
37	E. Gutzwiller & Cie, Banquiers	9/17/15	<a href="#">Press Release</a>	NPA and SOF (2.28 MB)
38	Migros Bank AG	9/25/15	<a href="#">Press Release</a>	NPA and SOF (503.35 KB)
39	Graubündner Kantonalbank	9/25/15	<a href="#">Press Release</a>	NPA and SOF (390.52 KB)
40	BHF-Bank (Schweiz) AG	10/1/15	<a href="#">Press Release</a>	NPA and SOF (2.44 MB)
41	Schaffhauser Kantonalbank	10/8/15	<a href="#">Press Release</a>	NPA and SOF (897.82 KB)
42	BBVA Suiza S.A.	10/16/15	<a href="#">Press Release</a>	NPA and SOF (2.74 MB)
43	Piguet Galland & Cie SA	10/23/15	<a href="#">Press Release</a>	NPA and SOF (2.79 MB)
44	Luzerner Kantonalbank AG	10/29/15	<a href="#">Press Release</a>	NPA and SOF (391.78 KB)
45	Habib Bank AG Zurich (HBZ)	10/29/15	<a href="#">Press Release</a>	NPA and SOF (509.23 KB)
46	Banque Heritage S.A.	10/29/15	<a href="#">Press Release</a>	NPA and SOF (352.61 KB)
47	Hyposwiss Private Bank Genève S.A.	10/29/15	<a href="#">Press Release</a>	NPA and SOF (425.12 KB)
48	Banque Bonhôte & Cie SA	11/3/15	<a href="#">Press Release</a>	NPA and SOF (368.33 KB)

49	Banque Internationale à Luxembourg (Suisse) SA	11/12/15	<a href="#">Press Release</a>	NPA and SOF (400.06 KB)
50	Zuger Kantonalbank	11/12/15	<a href="#">Press Release</a>	NPA and SOF (382.13 KB)
51	Standard Chartered Bank (Switzerland) SA	11/13/15	<a href="#">Press Release</a>	NPA and SOF (472.58 KB)
52	Maerki Baumann & Co. AG	11/17/15	<a href="#">Press Release</a>	NPA and SOF (460.31 KB)
53	BNP Paribas (Suisse) SA	11/19/15	<a href="#">Press Release</a>	NPA and SOF (497.99 KB)
54	KBL (Switzerland) Ltd.	11/19/15	<a href="#">Press Release</a>	NPA and SOF (469.25 KB)
55	Bank CIC	11/19/15	<a href="#">Press Release</a>	NPA and SOF (388.06 KB)
56	Privatbank IHAG Zürich AG	11/24/15	<a href="#">Press Release</a>	NPA and SOF (464.83 KB)
57	Deutsche Bank (Suisse) SA	11/24/15	<a href="#">Press Release</a>	NPA and SOF (431.79 KB)
58	EFG Bank European Financial Group SA, Geneva, and EFG Bank AG	12/3/15	<a href="#">Press Release</a>	NPA and SOF (588.89 KB)
59	Aargauische Kantonalbank	12/8/15	<a href="#">Press Release</a>	NPA and SOF (468.96 KB)
60	Cornèr Banca SA	12/10/15	<a href="#">Press Release</a>	NPA and SOF (446.77 KB)
61	Bank Coop AG	12/10/15	<a href="#">Press Release</a>	NPA and SOF (404.48 KB)
62	Crédit Agricole (Suisse) SA	12/15/15	<a href="#">Press Release</a>	NPA and SOF (454.09 KB)
63	Dreyfus Sons & Co Ltd, Banquiers	12/15/15	<a href="#">Press Release</a>	NPA and SOF (512.32 KB)
64	Baumann & Cie, Banquiers	12/15/15	<a href="#">Press Release</a>	NPA and SOF (453.32 KB)
65	Bordier & Cie Switzerland	12/17/15	<a href="#">Press Release</a>	NPA and SOF (394.78 KB)
66	PBZ Verwaltungs AG	12/17/15	<a href="#">Press Release</a>	NPA and SOF (582.22 KB)
67	PostFinance AG	12/17/15	<a href="#">Press Release</a>	NPA and SOF (385.3 KB)
68	Edmond de Rothschild (Suisse) SA and Edmond de Rothschild (Lugano) SA	12/18/15	<a href="#">Press Release</a>	NPA and SOF (480.3 KB)
69	Bank J. Safra Sarasin AG	12/23/15	<a href="#">Press Release</a>	NPA and SOF (447.66 KB)
70	Coutts & Co Ltd	12/23/15	<a href="#">Press Release</a>	NPA and SOF (460.87 KB)
71	Gonet & Cie	12/23/15	<a href="#">Press Release</a>	NPA and SOF (372.35 KB)
72	Banque Cantonal du Valais	12/23/15	<a href="#">Press Release</a>	NPA and SOF (481.25 KB)
73	Banque Cantonale Vaudoise	12/23/15	<a href="#">Press Release</a>	NPA and SOF (392.63 KB)
74	Bank Lombard Odier & Co Ltd	12/31/15	<a href="#">Press Release</a>	NPA and SOF
75	DZ Privatbank (Schweiz) AG	12/31/15	<a href="#">Press Release</a>	NPA and SOF
76	Union Bancaire Privée, UBP SA	1/6/16	<a href="#">Press Release</a>	NPA and SOF (495.2 KB)
77	Leodan Privatbank AG	1/20/16	<a href="#">Press Release</a>	NPA and SOF (496.86 KB)
78	HSZH Verwaltungs AG	1/27/16	<a href="#">Press Release</a>	NPA and SOF (756.21 KB)
79	NPB Neue Privat Bank	7/18/18	<a href="#">Press Release</a>	NPB Executed Signed Resolution Statement of Facts
80	Mirelis Holding	7/24/18	<a href="#">Press Release</a>	NPA and SOF
81	Lombard Odier	7/31/18	<a href="#">Press Release</a>	NPA Addendum





## Securities and Commodity Exchange Act

Whistleblowers can file anonymous and confidential claims.

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Eligibility does not depend on U.S. citizenship

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Whistleblowers who provide original information that leads to a successful enforcement action entitled to a mandatory reward of between 10-30% of the collected proceeds.

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Auditors and Compliance Officials can Qualify for Rewards under 3 conditions: (1) 120 days after first report; (2) cover-up or retaliation; (3) immediate disclosure needed to prevent major fraud harming investors



# Confidential and Anonymous Submissions

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## False Claims Act

Complaint filed under “seal” and only served on the government, not the defendant. This permits the government to investigate the case without the company knowing who the whistleblower is, or what information the whistleblower has disclosed. Once DOJ investigation is concluded the case is usually made public, and the whistleblower loses confidential status



## Dodd-Frank Act/Foreign Corrupt Practices Act/IRS

The Dodd-Frank Act (covering cases filed under the Securities Exchange Act, Commodity Exchange Act and Foreign Corrupt Practices Act permit anonymous filings and have other provisions providing for strict confidentiality, even if an award is paid. The IRS whistleblower law does not provide for anonymous submissions, but has very strict confidentiality rules which in practice provide extremely strong protections. Under all of these laws government investigators should ensure that information that could identify the whistleblower is not shared with the defendant/company under investigation.



# Financial Incentives



## Reward employees based on quality of information and success of prosecutions

Employees are incentivized to report frauds when there is strong evidence.

Compensation is based on the quality of information, not on how much suffering an employee experiences as a result of retaliation.

All rewards are paid as a percentage of the successful enforcement action triggered by the whistleblower.



## Proactive Protection

A reward-based whistleblower program permits an employee to take proactive steps to avoid retaliation. It is the only program that realistically permits confidential reporting and careful pre-screening of whistleblower disclosures.

Because a reward can only be paid if there is a successful enforcement action, whistleblowers are incentivized to report strong cases of major frauds.



## University of Chicago Booth School of Business

A critical study on fraud detection came out of the University of Chicago's Booth School of Business.

Their goal was to "identify the most effective mechanism for detecting corporate fraud."

“

*A strong monetary incentive to blow the whistle does motivate people with information to come forward.*

*Monetary incentives seem to work well, without the negative side effects often attributed to them.*

*Employees clearly have the best access to information.*

— Alexander Dyke, et al., University of Chicago Booth School of Business

”

Updated with new information on rewards,  
wildlife trafficking, and Wall Street whistleblowing

**THE NEW**

# Whistleblower's HANDBOOK

**A Step-by-Step Guide to Doing  
What's Right and Protecting Yourself**

**STEPHEN MARTIN KOHN, ESQ**

Nationally Acclaimed Expert  
on Whistleblower Law

*"You may want to add this book to your... wish list. Just don't let your boss catch you reading it."*

*–Wall Street Journal*

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Links to the legal authorities including statutes, regulations, and cases relied upon in The Handbook can be found [online](#), including:

- New Legal Tools: [Rule 1](#)
- False Claims Act / Qui Tam: [Rule 6](#)
- Tax Whistleblowers: [Rule 7](#)
- SEC/CFTC rewards: [Rule 8](#)
- Foreign Corrupt Practices Act: [Rule 9](#)
- Reward Rules for Auditors: [Rule 19](#)
- Non-Disclosure Agreements: [Rule 28](#)
- International Whistleblowing: [International Toolkit](#)





**Stephen M. Kohn**  
**Founding Director, National Whistleblower Center**  
**Partner, [Kohn, Kohn & Colapinto, LLP](#)**

[Stephen M. Kohn](#), a partner in the law firm of [Kohn, Kohn & Colapinto](#) and the Chairman of the Board of Directors of the [National Whistleblower Center](#), has represented whistleblowers since 1984, successfully setting numerous precedents that have helped define modern whistleblower law. He currently represents whistleblowers at major international financial institutions, including the [Danske Bank manager](#) who reported a massive multi-billion dollar money laundering scheme. He obtained the [largest reward ever paid](#) to an individual whistleblower (\$104 million for exposing illegal offshore bank accounts) and is widely recognized as the leading U.S. authority on whistleblower laws. Mr. Kohn is the most published author on whistleblower law, including [The New Whistleblower's Handbook: A Step-by-Step Guide to Doing What's Right and Protecting Yourself](#).



## Contact

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Stephen M. Kohn  
Kohn, Kohn and Colapinto  
1710 N Street, N.W.  
Washington, D.C. 20036  
Website: [www.kkc.com](http://www.kkc.com)  
Email: [contact@kkc.com](mailto:contact@kkc.com).

National Whistleblower Center:  
[contact@whistleblowers.org](mailto:contact@whistleblowers.org)

## Connect with the NWC

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@NationalWhistleblowerCenter



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National Whistleblower Center

[www.whistleblowersblog.org](http://www.whistleblowersblog.org) | [www.whistleblowers.org](http://www.whistleblowers.org)



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# Read the Original Sources

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## **Mandatory Reward Laws**

- False Claims Act | [31 U.S.C. § 3729-3732](#)
- Internal Revenue Code | [26 U.S.C. § 7623](#)
- Securities Exchange Act | [15 U.S.C. § 78u-6](#)
- Commodity Exchange Act | [7 U.S.C. § 26](#)
- Foreign Corrupt Practices Act | [15 U.S.C. § 78m](#)

## **Discretionary Reward Laws**

- Act to Prevent Pollution from Ships | [33 U.S.C. § 1908\(a\)](#)
- Lacey Act | [16 U.S.C. § 3375\(d\)](#)
- Endangered Species Act | [15 U.S.C. § 78u-6](#)

## Statements from Officials

- Alexander Dyck, et al., "[Who Blows the Whistle on Corporate Fraud?](#)" The University of Chicago Booth School of Business Working Paper No. 08-22 (2009).
- Bill Baer - Remarks at [American Bar Association's 11th National Institute](#) on the Civil False Claims Act and Qui Tam Enforcement (2016)
- Chad A. Readler, Department of Justice, Civil Division, in press release titled, "[Justice Department Recovers Over \\$3.7 Billion From False Claims Act Cases in Fiscal Year 2017](#)" (December 2017).
- Charles Grassley, Chairman of Senate Judiciary Committee, speech given on National Whistleblower Day (July 30, 2018) --- Watch the [Video](#) --- Read the [Speech](#)
- Christopher Ehrman, Director of the CFTC's Whistleblower Office, [Press Release](#) "CFTC Announces Multiple Whistleblower Awards Totaling More than \$45 Million"
- Eric Holder, U.S. Department of Justice, [remarks at the 25th anniversary of the False Claims Act](#) (January 31, 2012).



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## Statements from Officials, cont.

- John A. Koskinen, Commissioner of the IRS, [Remarks](#) before the U.S. Council for International Business-OECD International Tax Conference
- Kevin M. O'Neill, Deputy Secretary, Securities and Exchange Commission, [Order Determining Whistleblower Award Claim](#)
- Mary Jo White, Securities and Exchange Commission, [Remarks at the Securities Enforcement Forum](#), Washington DC (October 2013)
- Stuart Delery - [Remarks](#) at American Bar Association's 10th National Institute on the Civil False Claims Act and Qui Tam Enforcement (2014) and U.S. Department of Justice, [remarks at American Bar Association's 10th National Institute](#) on the Civil False Claims Act and Qui Tam Enforcement (June 5, 2014).
- SEC Press Release ([Petrobras](#)): <https://www.kkc.com/wp-content/uploads/2019/11/SEC.gov--Petrobras-Reaches-Settlement-With-SEC-for-Misleading-Investors.pdf>
- Jane Norberg, Chief of the Office of the Whistleblower, Securities and Exchange Commission, [Press Release](#) on award to overseas whistleblower

## Reports and other Laws

- Alexander Dyck, et al., "[Who Blows the Whistle on Corporate Fraud?](#)" The University of Chicago Booth School of Business Working Paper No. 08-22 (2009).
- Federal Obstruction of Justice, [18 U.S.C. §1513](#)
- SEC Enforcement Action on NDAs, [In re KBR](#).
- Report Published by the National Whistleblower Center: [Foreign Corrupt Practices Act: How the Whistleblower Reward Provisions Have Worked](#)

## International Cases under the Foreign Corrupt Practices Act Published by the SEC

- [Petroleo Brasileiro](#)
- [Quad/Graphics](#)
- [Telefonica Brasil](#)
- [Fresenius Medical](#)
- [Sanofi](#)
- [Credit Suisse](#)
- [Telia](#)
- [SQM](#)
- [Biomet](#)

## International Cases under the Commodity Exchange Act Published by the CFTC

- [Société General](#)
- [Commerzbank AG](#)
- [Statoil ASA](#)
- [JSC VTB Banks](#)
- [Weidong Ge](#)