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HOUSE OF REPRESENTATIVES
REPORT
117–423

# TO PROVIDE FOR CERTAIN WHISTLEBLOWER INCENTIVES AND PROTECTIONS

JULY 20, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services, submitted the following

# R E P O R T

[To accompany H.R. 7195]

The Committee on Financial Services, to whom was referred the bill (H.R. 7195) to provide for certain whistleblower incentives and protections, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. WHISTLEBLOWER INCENTIVES AND PROTECTIONS.**

(a) AWARDS FOR WHISTLEBLOWERS.—

(1) IN GENERAL.—Section 5323 of title 31, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) AWARDS.—

"(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Secretary, under regulations prescribed by the Secretary, in consultation with the Attorney General and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the employer of the individual, the Secretary, or the Attorney General, as applicable, that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—

"(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and

"(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

"(2) PAYMENT OF AWARDS.—

"(A) IN GENERAL.—Any amount paid under paragraph (1) shall be paid from the Fund established under paragraph (3).

"(B) RELATED ACTIONS.—The Secretary may pay awards less than the amount described in paragraph (1)(A) for related actions in which a whistleblower may be paid by another whistleblower award program.

"(3) SOURCE OF AWARDS.—

"(A) IN GENERAL.—There shall be established in the Treasury of the United States a revolving fund to be known as the Financial Integrity Fund (referred to in this subsection as the 'Fund').

"(B) USE OF FUND.—The Fund shall be available to the Secretary, without further appropriation or fiscal year limitations, only for the payment of awards to whistleblowers as provided in subsection (b).

"(C) RESTRICTIONS ON USE OF FUND.—The Fund shall not be available to pay any personnel or administrative expenses.

"(4) DEPOSITS AND CREDITS.—

"(A) IN GENERAL.—There shall be deposited into or credited to the Fund an amount equal to—

"(i) any monetary sanction collected by the Secretary or Attorney General in any judicial or administrative action under this title or a covered statute, unless the balance of the Fund at the time the monetary sanction is collected exceeds $300,000,000; and

"(ii) all income from investments made under paragraph (5).

"(B) ADDITIONAL AMOUNTS.—If the amounts deposited into or credited to the Fund under subparagraph (A) are not sufficient to satisfy an award made under this subsection, there shall be deposited into or credited to the Fund an amount equal to the unsatisfied portion of the award from any monetary sanction collected by the Secretary of the Treasury or Attorney General in the covered judicial or administrative action on which the award is based.

"(C) EXCEPTION.—No amounts to be deposited or transferred into the United States Victims of State Sponsored Terrorism Fund established under to the Justice for United States Victims of State Sponsored Terrorism Act (34 U.S.C. 20144) or the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (34 U.S.C. 20101) shall be deposited into or credited to the Fund.

"(5) INVESTMENTS.—

"(A) AMOUNTS IN FUND MAY BE INVESTED.—The Secretary of the Treasury may invest the portion of the Fund that is not required to meet the current needs of the Fund.

"(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Secretary.

"(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.".

(2) COVERED STATUTE DEFINED.—Section 5323(a) of title 31, United States Code, is amended by adding at the end the following:

"(6) COVERED STATUTE DEFINED.—In this section, the term 'covered statute' means—

"(A) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

"(B) sections 5 and 12 of the Trading With the Enemy Act (50 U.S.C. 4305; 4312); and

"(C) the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5323 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (5), by striking "this subchapter or subchapter III" each place the term appears and inserting "this subchapter or a covered statute, or for a conspiracy to violate such subchapter or covered statute,"; and

(B) in paragraph (4)—

(i) by striking "with respect to" and all that follows through "subchapter III" and inserting "with respect to any covered judicial or administrative action"; and

(ii) by striking "action by the Secretary or the Attorney General" and inserting "covered judicial or administrative action";

(2) in subsection (c)(1)(B)(iii)—

(A) by striking "subchapter and subchapter III" and inserting "this subchapter or a covered statute, or a conspiracy or attempt to violate such subchapter or covered statute,"; and

(B) by striking "either such subchapter" and inserting "the applicable subchapter or covered statute"; and

(3) in subsection (g)(4)(D)(i), by inserting "or a covered statute" after "subchapter,".

Amend the title so as to read:

A bill to amend title 31, United States Code, to provide for certain whistleblower incentives and protections.

## PURPOSE AND SUMMARY

On March 24, 2022, Representative Adams introduced H.R. 7195, "To provide for certain whistleblower incentives and protections," which would modify the structure and function of the Financial Crimes Enforcement Network's (FinCEN's) recently mandated whistleblower program, ensuring that individuals who provide information that leads to successful enforcement are able to receive awards, as intended by the AntiMoney Laundering Act of 2020 (AMLA).

## BACKGROUND AND NEED FOR LEGISLATION

To combat abuse of anti-money laundering (AML) laws and to bolster enforcement of Bank Secrecy Act (BSA) regulations, AMLA included a program that requires Treasury to pay awards to whistleblowers who provide original information leading to successful enforcement actions for violating the BSA and AML requirements. It also provides anti-retaliation protections for whistleblowers, outlines criteria for awards and program processes, and establishes an AML and counter-terrorism financing fund from which the awards can be made. FinCEN is the administering agency of the Treasury Department.

As currently written in the statute, awards are capped at 25% with no minimum for a successful claim. According to the National Whistleblower Center, "It is highly unlikely that persons with relevant information relating to illegal money laundering and financing terrorism will risk their livelihoods, reputations and the potential of high litigation costs without reasonable financial assurances." Further, without a guaranteed fee-covering incentive, it was reported that lawyers who specialize in representing potential whistleblowers were declining the cases. This bill remedies this issue by ensuring that whistleblowers who reveal information on

money laundering receive awards of 10% to 30% of the fines imposed due to their information.

This bill also creates the Financial Integrity Fund, a dedicated fund from the collected fines, ensuring that award money is there when it is needed rather than being tied to resolved appeals or to the Congressional appropriations process. To reinforce this improvement, the bill specifies that the fund may not be applied to cover agency personnel or administrative expenses. Additionally, the bill adds a provision that allows the award to be reduced if the whistleblower is collecting multiple awards from multiple agency whistleblower programs for related actions.

Finally, this bill expands the whistleblower program to three new statues: the International Emergency Economic Powers Act, the Foreign Narcotics Kingpin Designation Act, and the Trading with the Enemy Act. These three statutes include nearly every enforcement action with penalties arising from a U.S. sanctions program, however, none currently have a whistleblower program.

This bill is supported by the following organizations: The National Whistleblower Center, Taxpayers Against Fraud, Transparency International U.S., The Project on Government Oversight (POGO), and the Government Accountability Project.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Whistleblower incentives and protections*

- Paragraph (a) amends Section 5323 of title 31 to:
  - Establish a minimum whistleblower award of 10% and a maximum of 30% of what has been collected of the monetary sanctions imposed in the action or related actions for awards.
  - Allow the program to pay awards less than the amount described when there are related actions in which a whistleblower may be paid by another whistleblower award program.
  - Establish the "Financial Integrity Fund" from which awards would be drawn, sourced from only for the payment of awards to whistleblowers and restricted from being used for program personnel or administrative expenses.
  - Apply parameters to the funds deposited into or credited from the Financial Integrity Fund and providing for exceptions for certain victim restitution funds.
  - Expand the "Covered Statutes" to include the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); the Trading With the Enemy Act (50 U.S.C. 4305; 4312); and the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.).
- Paragraph (b) provides technical and conforming amendments.

## HEARINGS

For the purposes of section 3(c)(6) of House rule XIII, the Committee on Financial Services' Full Committee held a hearing to consider H.R. 7195 entitled, "Oversight of the Financial Crimes Enforcement Network," on April 28, 2022.

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 22, 2022, and ordered H.R. 7195 to be reported favorably to the House with an amendment in the nature of a substitute by a voice vote, a quorum being present.

## COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no roll call votes occurred during the Committee's consideration of H.R. 7195.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 7195 are to modify the structure and function of the Financial Crimes Enforcement Network's (FinCEN's) recently mandated whistleblower program, ensuring that individuals who provide information that leads to successful enforcement are able to receive awards, as intended by the AntiMoney Laundering Act of 2020 (AMLA).

## NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested an estimate from the Director of the Congressional Budget Office. CBO was unable to provide an estimate in a timely manner.

## COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 7195. After careful review, including discussions with the Congressional Budget Office, the Committee estimates that H.R. 7195 would have an insignificant impact on spending.

## UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104–4), the Committee adopts its own the estimate of federal mandates regarding H.R. 7195, as amended.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104–1, H.R. 7195, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 7195 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 7195 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 7195, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**TITLE 31, UNITED STATES CODE**

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## SUBTITLE IV—MONEY

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### CHAPTER 53—MONETARY TRANSACTIONS

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SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

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**§ 5323. Whistleblower incentives and protections**

(a) DEFINITIONS.—In this section:

(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term "covered judicial or administrative action" means any judicial or administrative action brought by the Secretary of the Treasury (referred to in this section as the "Secretary") or the Attorney General under [this subchapter or subchapter III] *this subchapter or a covered statute, or for a conspiracy to violate such subchapter or covered statute,* that results in monetary sanctions exceeding $1,000,000.

(2) MONETARY SANCTIONS.—The term "monetary sanctions", when used with respect to any judicial or administrative action—

(A) means any monies, including penalties, disgorgement, and interest, ordered to be paid; and

(B) does not include—

(i) forfeiture;

(ii) restitution; or

(iii) any victim compensation payment.

(3) ORIGINAL INFORMATION.—The term "original information" means information that—

(A) is derived from the independent knowledge or analysis of a whistleblower;

(B) is not known to the Secretary or the Attorney General from any other source, unless the whistleblower is the original source of the information; and

(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

(4) RELATED ACTION.—The term "related action", when used [with respect to any judicial or administrative action brought by the Secretary or the Attorney General under this subchapter or subchapter III] *with respect to any covered judicial or administrative action*, means any judicial or administrative action brought by an entity described in any of subclauses (I) through (III) of subsection (g)(4)(D)(i) that is based upon the original information provided by a whistleblower pursuant to subsection (b) that led to the successful enforcement of the [action by the Secretary or the Attorney General] *covered judicial or administrative action*.

(5) WHISTLEBLOWER.—

(A) IN GENERAL.—The term "whistleblower" means any individual who provides, or 2 or more individuals acting jointly who provide, information relating to a violation of [this subchapter or subchapter III] *this subchapter or a covered statute, or for a conspiracy to violate such subchapter or covered statute,* to the employer of the individual or individuals, including as part of the job duties of

the individual or individuals, or to the Secretary or the Attorney General.

(B) SPECIAL RULE.—Solely for the purposes of subsection (g)(1), the term "whistleblower" includes any individual who takes, or 2 or more individuals acting jointly who take, an action described in subsection (g)(1)(A).

*(6) COVERED STATUTE DEFINED.—In this section, the term "covered statute" means—*

*(A) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);*

*(B) sections 5 and 12 of the Trading With the Enemy Act (50 U.S.C. 4305; 4312); and*

*(C) the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.).*

[(b) AWARDS.—

[(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Secretary, under regulations prescribed by the Secretary, in consultation with the Attorney General and subject to subsection (c) and to amounts made available in advance by appropriation Acts, shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the employer of the individual, the Secretary, or the Attorney General, as applicable, that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

[(2) SOURCE OF AWARDS.—For the purposes of paying any award under this section, the Secretary may, subject to amounts made available in advance by appropriation Acts, use monetary sanction amounts recovered based on the original information with respect to which the award is being paid.]

*(b) AWARDS.—*

*(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Secretary, under regulations prescribed by the Secretary, in consultation with the Attorney General and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the employer of the individual, the Secretary, or the Attorney General, as applicable, that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—*

*(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and*

*(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.*

*(2) PAYMENT OF AWARDS.—*

*(A) IN GENERAL.—Any amount paid under paragraph (1) shall be paid from the Fund established under paragraph (3).*

*(B) RELATED ACTIONS.—The Secretary may pay awards less than the amount described in paragraph (1)(A) for re-*

*lated actions in which a whistleblower may be paid by another whistleblower award program.*

*(3) SOURCE OF AWARDS.—*

*(A) IN GENERAL.—There shall be established in the Treasury of the United States a revolving fund to be known as the Financial Integrity Fund (referred to in this subsection as the "Fund").*

*(B) USE OF FUND.—The Fund shall be available to the Secretary, without further appropriation or fiscal year limitations, only for the payment of awards to whistleblowers as provided in subsection (b).*

*(C) RESTRICTIONS ON USE OF FUND.—The Fund shall not be available to pay any personnel or administrative expenses.*

*(4) DEPOSITS AND CREDITS.—*

*(A) IN GENERAL.—There shall be deposited into or credited to the Fund an amount equal to—*

*(i) any monetary sanction collected by the Secretary or Attorney General in any judicial or administrative action under this title or a covered statute, unless the balance of the Fund at the time the monetary sanction is collected exceeds $300,000,000; and*

*(ii) all income from investments made under paragraph (5).*

*(B) ADDITIONAL AMOUNTS.—If the amounts deposited into or credited to the Fund under subparagraph (A) are not sufficient to satisfy an award made under this subsection, there shall be deposited into or credited to the Fund an amount equal to the unsatisfied portion of the award from any monetary sanction collected by the Secretary of the Treasury or Attorney General in the covered judicial or administrative action on which the award is based.*

*(C) EXCEPTION.—No amounts to be deposited or transferred into the United States Victims of State Sponsored Terrorism Fund established under to the Justice for United States Victims of State Sponsored Terrorism Act (34 U.S.C. 20144) or the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (34 U.S.C. 20101) shall be deposited into or credited to the Fund.*

*(5) INVESTMENTS.—*

*(A) AMOUNTS IN FUND MAY BE INVESTED.—The Secretary of the Treasury may invest the portion of the Fund that is not required to meet the current needs of the Fund.*

*(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Secretary.*

*(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.*

(c) DETERMINATION OF AMOUNT OF AWARD; DENIAL OF AWARD.—

(1) DETERMINATION OF AMOUNT OF AWARD.—

(A) DISCRETION.—The determination of the amount of an award made under subsection (b) shall be in the discretion of the Secretary.

(B) CRITERIA.—In determining the amount of an award made under subsection (b), the Secretary shall take into consideration—

(i) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;

(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

(iii) the programmatic interest of the Department of the Treasury in deterring violations of this [subchapter and subchapter III] *this subchapter or a covered statute, or a conspiracy or attempt to violate such subchapter or covered statute,* by making awards to whistleblowers who provide information that lead to the successful enforcement of [either such subchapter] *the applicable subchapter or covered statute*; and

(iv) such additional relevant factors as the Secretary, in consultation with the Attorney General, may establish by rule or regulation.

(2) DENIAL OF AWARD.—No award under subsection (b) may be made—

(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Secretary or the Attorney General, as applicable, a member, officer, or employee—

(i) of—

(I) an appropriate regulatory or banking agency;

(II) the Department of the Treasury or the Department of Justice; or

(III) a law enforcement agency; and

(ii) acting in the normal course of the job duties of the whistleblower;

(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section; or

(C) to any whistleblower who fails to submit information to the Secretary or the Attorney General, as applicable, in such form as the Secretary, in consultation with the Attorney General, may, by rule, require.

(d) REPRESENTATION.—

(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.

(2) REQUIRED REPRESENTATION.—

(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.

(B) DISCLOSURE OF IDENTITY.—Before the payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Secretary may require, directly or through counsel for the whistleblower.

(e) NO CONTRACT NECESSARY.—No contract with the Department of the Treasury is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Secretary by rule or regulation.

(f) APPEALS.—

(1) IN GENERAL.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Secretary.

(2) REQUIREMENTS.—

(A) IN GENERAL.—Any determination described in paragraph (1), except the determination of the amount of an award if the award was made in accordance with subsection (b), may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Secretary.

(B) SCOPE OF REVIEW.—The court to which a determination by the Secretary is appealed under subparagraph (A) shall review the determination in accordance with section 706 of title 5.

(g) PROTECTION OF WHISTLEBLOWERS.—

(1) PROHIBITION AGAINST RETALIATION.—No employer may, directly or indirectly, discharge, demote, suspend, threaten, blacklist, harass, or in any other manner discriminate against a whistleblower in the terms and conditions of employment or post-employment because of any lawful act done by the whistleblower—

(A) in providing information in accordance with this section to—

(i) the Secretary or the Attorney General;

(ii) a Federal regulatory or law enforcement agency;

(iii) any Member of Congress or any committee of Congress; or

(iv) a person with supervisory authority over the whistleblower, or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct; or

(B) in initiating, testifying in, or assisting in any investigation or judicial or administrative action of the Department of the Treasury or the Department of Justice based upon or related to the information described in subparagraph (A); or

(C) in providing information regarding any conduct that the whistleblower reasonably believes constitutes a violation of any law, rule, or regulation subject to the jurisdiction of the Department of the Treasury, or a violation of section 1956, 1957, or 1960 of title 18 (or any rule or regulation under any such provision), to—

(i) a person with supervisory authority over the whistleblower at the employer of the whistleblower; or

(ii) another individual working for the employer described in clause (i) who the whistleblower reasonably believes has the authority to—

(I) investigate, discover, or terminate the misconduct; or

(II) take any other action to address the misconduct.

(2) ENFORCEMENT.—Any individual who alleges discharge or other discrimination, or is otherwise aggrieved by an employer, in violation of paragraph (1), may seek relief by—

(A) filing a complaint with the Secretary of Labor in accordance with the requirements of this subsection; or

(B) if the Secretary of Labor has not issued a final decision within 180 days of the filing of a complaint under subparagraph (A), and there is no showing that such a delay is due to the bad faith of the claimant, bringing an action against the employer at law or in equity in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(3) PROCEDURE.—

(A) DEPARTMENT OF LABOR COMPLAINT.—

(i) IN GENERAL.—Except as provided in clause (ii) and subparagraph (C), the requirements under section 42121(b) of title 49, including the legal burdens of proof described in such section 42121(b), shall apply with respect to a complaint filed under paragraph (2)(A) by an individual against an employer.

(ii) EXCEPTION.—With respect to a complaint filed under paragraph (2)(A), notification required to be made under section 42121(b)(1) of title 49 shall be made to each person named in the complaint, including the employer.

(B) DISTRICT COURT COMPLAINT.—

(i) JURY TRIAL.—A party to an action brought under paragraph (2)(B) shall be entitled to trial by jury.

(ii) STATUTE OF LIMITATIONS.—

(I) IN GENERAL.—An action may not be brought under paragraph (2)(B)—

(aa) more than 6 years after the date on which the violation of paragraph (1) occurs; or

(bb) more than 3 years after the date on which when facts material to the right of action are known, or reasonably should have been known, by the employee alleging a violation of paragraph (1).

(II) REQUIRED ACTION WITHIN 10 YEARS.—Notwithstanding subclause (I), an action under paragraph (2)(B) may not in any circumstance be brought more than 10 years after the date on which the violation occurs.

(C) RELIEF.—Relief for an individual prevailing with respect to a complaint filed under subparagraph (A) of paragraph (2) or an action brought under subparagraph (B) of that paragraph shall include—

(i) reinstatement with the same seniority status that the individual would have had, but for the conduct that is the subject of the complaint or action, as applicable;

(ii) 2 times the amount of back pay otherwise owed to the individual, with interest;

(iii) the payment of compensatory damages, which shall include compensation for litigation costs, expert witness fees, and reasonable attorneys' fees; and

(iv) any other appropriate remedy with respect to the conduct that is the subject of the complaint or action, as applicable.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (C) and (D), the Secretary or the Attorney General, as applicable, and any officer or employee of the Department of the Treasury or the Department of Justice, shall not disclose any information, including information provided by a whistleblower to either such official, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the appropriate such official or any entity described in subparagraph (D).

(B) EXEMPTED STATUTE.—For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(C) RULE OF CONSTRUCTION.—Nothing in this section is intended to limit, or shall be construed to limit, the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

(D) AVAILABILITY TO GOVERNMENT AGENCIES.—

(i) IN GENERAL.—Without the loss of its status as confidential in the hands of the Secretary or the Attorney General, as applicable, all information referred to in subparagraph (A) may, in the discretion of the appropriate such official, when determined by that official to be necessary to accomplish the purposes of this subchapter, *or a covered statute* be made available to—

(I) any appropriate Federal authority;

(II) a State attorney general in connection with any criminal investigation;

(III) any appropriate State regulatory authority; and

(IV) a foreign law enforcement authority.

(ii) CONFIDENTIALITY.—

(I) IN GENERAL.—Each of the entities described in subclauses (I) through (III) of clause (i) shall maintain such information as confidential in accordance with the requirements established under subparagraph (A).

(II) FOREIGN AUTHORITIES.—Each entity described in clause (i)(IV) shall maintain such information in accordance with such assurances of confidentiality as determined by the Secretary or Attorney General, as applicable.

(5) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law or under any collective bargaining agreement.

(6) COORDINATION WITH OTHER PROVISIONS OF LAW.—This subsection shall not apply with respect to any employer that is subject to section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) or section 213 or 214 of the Federal Credit Union Act (12 U.S.C. 1790b, 1790c).

(h) PROVISION OF FALSE INFORMATION.—A whistleblower shall not be entitled to an award under this section if the whistleblower—

(1) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or

(2) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.

(i) RULEMAKING AUTHORITY.—The Secretary, in consultation with the Attorney General, shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.

(j) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—The rights and remedies provided for in this section may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—No predispute arbitration agreement shall be valid or enforceable, to the extent the agreement requires arbitration of a dispute arising under this section.

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