(ii) Form G–325A, Biographic Information.

(iii) [Reserved]

(iv) The applicant's birth certificate.

(v) An executed Form I–508, Waiver of Rights, Privileges, Exemptions, and Immunities, if applicable.

(vi) Official confirmation of the applicant's parent's foreign government employment, including occupational title and, if applicable, diplomatic classification at the time of the applicant's birth.

(vii) A list of all the applicant's arrivals in and departures from the United States.

(viii) Proof of continuous residence in the United States.

(ix) Two photographs prepared in accordance with the specifications outlined in the instructions on the application form. The immigration officer to whom the application is submitted, however, may waive the photographs for just cause.

* * * * *

Christina E. McDonald,

Associate General Counsel for Regulatory Affairs, U.S. Department of Homeland Security.

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BILLING CODE 9111–97–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 165

RIN 3038–AF74

Whistleblower Award Determination

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is amending its rules implementing section 23 of the Commodity Exchange Act (''CEA''). Section 23 of the CEA and the Commission's implementing regulations provide for the payment of awards, subject to certain limitations and conditions, to whistleblowers who provide the Commission with information that aids in successful enforcement efforts. The Commission is adopting amendments, which are modeled on a similar provision in the Securities and Exchange Commission's (''SEC'') regulations, to part 165 of its regulations to increase the efficiency, transparency, and predictability of whistleblower claims process, thereby protecting and enhancing the program's effectiveness in incentivizing whistleblowers to report. The amendments also include technical corrections to the whistleblower rules to reflect the Whistleblower Office's (''WBO'') move in 2025, consistent with its adjudicatory functions, to the Office of the General Counsel (''OGC'').

DATES: This rule is effective October 16, 2026.

FOR FURTHER INFORMATION CONTACT: Tyler S. Badgley, General Counsel, *rulemaking@cftc.gov,* 202–418–5000; Stephen Andrews, Deputy General Counsel for Regulation, Office of the General Counsel, *rulemaking@cftc.gov,* 202–308–7563; Aaron Levine, Senior Advisor, Office of the General Counsel, *rulemaking@cftc.gov,* 646–746–9721; Raagnee Beri, Director, Whistleblower Office, *rberi@cftc.gov,* 202–418–5986; Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

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I. Background

The CFTC's whistleblower program (''Program'') plays an important role in promoting the fairness and integrity of the nation's derivatives markets. By rewarding individuals who come forward and provide original information about violations of the CEA or the Commission's regulations (''Regulations''), the Program enhances the Commission's enforcement efforts and helps deter illegal conduct.

Section 23 of the CEA establishes the Program,[1] while part 165 of the Regulations defines the Program's framework.[2] Part 165 of the Regulations provides for the payment of awards, subject to certain limitations and conditions, to whistleblowers who provide the Commission information that aids in successful enforcement efforts. To qualify for an award, a whistleblower must voluntarily provide original information about a violation of the CEA or the Regulations that leads to a successful Commission enforcement action (judicial or administrative) that results in monetary sanctions over $1 million (''Covered Action''), or the successful enforcement of an action brought by specified entities or organizations including the Department of Justice.

(''Related Action'').[3] The CEA and Regulations authorize an aggregate award of between 10 and 30 percent of the amount of monetary sanctions collected in the Covered Action and/or a Related Action for successful claimants, which is paid from the CFTC Customer Protection Fund (''CPF'').[4] Throughout the process, whistleblowers who make a claim for an award have a right to be represented by counsel.[5]

The Commission retains discretion in determining whistleblower award amounts.[6] In exercising this discretion, the Commission must consider certain statutorily specified factors, but it may not consider the CPF balance.[7] Rule 165.9 defines the factors the Commission considers in determining a whistleblower award amount.[8] Positive factors that may increase an award include: the significance of the information provided by the whistleblower, the degree of assistance

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[1] 7 U.S.C. 26.

[2] 17 CFR part 165.

[3] *See* 7 U.S.C. 26(a)(1), (5), (b)(1); 17 CFR 165.2(e) (defining ''covered judicial or administrative action''); 165.2(m) (defining ''related action''); 165.5 (requirements for consideration of an award); 165.7 (procedures for award applications in Commission actions and related actions, and Commission award determinations); 165.11(a) (awards based on related actions).

[4] 7 U.S.C. 26(b)(2). The CPF is funded through certain monetary sanctions that the Commission collects and can receive deposits or credits when the balance is at or below $100 million. 7 U.S.C. 26(g)(3)(A). In contrast, the SEC Investor Protection Fund—the counterpart to the CPF for funding SEC whistleblower awards—has a higher $300 million threshold. 15 U.S.C. 78u–6(g)(a)(3)(A)(i). If amounts deposited or credited to the CPF are insufficient to pay a whistleblower award, additional collected monetary sanctions equal to the unsatisfied portion of the award are to be deposited or credited to the CPF. 7 U.S.C. 26(g)(3)(B). Besides funding whistleblower awards, the CPF also funds the operation of the WBO and the Office of Customer Education and Outreach. *See id.* (g)(2); U.S. Commodity Futures Trading Commission—Availability of the Customer Protection Fund, B–321788 (GAO Aug. 8, 2011).

[5] 7 U.S.C. 26(d)(1).

[6] *Id.* 26(c)(1)(A); 17 CFR 165.9.

[7] 7 U.S.C. 26(c)(1)(B)(i)(I)–(III) (specifying the following for consideration: information's significance; degree of the assistance; programmatic interest; and enhanced ability to enforce the CEA, protect customers, and encourage the submission of high-quality information); *id.* 26(c)(1)(B)(ii) (prohibiting consideration of the CPF balance); *see also id.* 26(c)(1)(B)(i)(IV) (authorizing the Commission to consider other factors established by rule or regulation).

[8] 17 CFR 165.9.

provided by the whistleblower, furtherance of the Commission's law enforcement interest, and the whistleblower's participation in internal compliance systems.[9] Negative factors that may reduce an award include whistleblower culpability, unreasonable reporting delay, and interference with internal compliance and reporting systems.[10] In promulgating rule 165.9, the Commission expressed its intent that whistleblower award amounts be determined based on an individualized review of the circumstances surrounding each award.[11]

Part 165 also defines the process by which Program awards are made, with the WBO serving as administrator. Among other duties,[12] the WBO reviews whistleblower award claims and makes initial recommendations regarding their disposition. In doing so, the WBO reviews the circumstances surrounding each claim, with outreach where appropriate, to other Commission staff including the Division of Enforcement (''DOE''), or, for Related Actions, to the staff of other relevant agencies.[13] If a claimant appears eligible for an award, the WBO analyzes each of the factors set out in CEA section 23(c) and rule 165.9.

Designated Claims Review Staff (''CRS'')—consisting of three to five individuals from various Commission divisions and offices—review the WBO's initial recommendation and issue a preliminary determination (''Preliminary Determination'') based on the WBO's analysis and recommendations. A Preliminary Determination reflects the CRS's assessment of whether a claim should be granted, and, if so, proposes a percentage of the collected monetary sanctions for the award in the Covered Action and any Related Actions.[14] If a claimant disagrees with a Preliminary Determination, the claimant may contest it by submitting a written response.[15] The CRS considers timely submitted responses before making a proposed final determination (''Proposed Final Determination''). The WBO notifies the Commission of each Proposed Final Determination, and, within 30 calendar days, any Commissioner may request Commission review of a Proposed Final Determination.[16] A Proposed Final Determination automatically becomes a final order of the Commission (''Final Order'') if no Commissioner requests review by the full Commission. If a Commissioner requests a review, the Commission will review the record relied upon by Commission staff in making its determination and will then issue a Final Order.[17] The OGC reviews all Preliminary Determinations and Proposed Final Determinations for legal sufficiency before their issuance.[18]

By many metrics, the Program has been a success since it began operating in 2011. Through the end of calendar year 2025, whistleblower reports have contributed to successful enforcement actions resulting in over $3.3 billion in financial remedies,[19] including approximately $160 million (excluding added interest) returned to harmed customers. In fiscal year (''FY'') 2024, whistleblowers contributed information relevant to approximately 42 percent of the Commission's enforcement actions. Between 2014, when the Commission issued its first whistleblower award, and the end of calendar year 2025, the Commission granted 73 awards in 56 matters, totaling over $395 million in award payments. As the agency's Director of Enforcement noted at the time, ''Timely reports to the CFTC are critical for enforcement [as they] help prevent further harm to customers or market participants and hold wrongdoers accountable to the fullest extent possible.'' [20]

Notwithstanding the Program's success, an important area for improvement remains: the time required to process and issue awards for meritorious claims. From 2012 to 2025, the average time from the deadline for prospective whistleblowers to submit award claims to the date of a Commission Final Order granting an award to meritorious claimants averaged more than 2.5 years. The delay between claim submission and award is a concern for the Commission, claimants, and members of Congress, as delays could dampen incentives for potential whistleblowers to participate in the Program.[21]

The Commission believes the amendments adopted herein will help to improve processing time and promote transparency in the awards process. Before these amendments, Commission staff were required to analyze the factors that may increase the amount of a whistleblower's award regardless of the size of an award, including for smaller awards.[22] This process consumed resources that otherwise could be devoted to resolving larger, more complex matters. Responding to requests to contest a Preliminary Determination, where a claimant has contested an award of less than the maximum 30 percent award, can also consume additional Commission time and resources.[23]

The Commission expects the rule changes adopted herein will shorten the time needed to resolve meritorious, smaller-dollar whistleblower claims by limiting the scope of analysis and intra-agency review of the appropriate award percentage. These resource savings will allow Commission staff to concentrate on larger awards, facilitating the Commission's ability to assess and pay larger award claims more quickly. And, as explained below, the Commission expects that a shortened award timeframe and more transparent, predictable process will reinforce whistleblowers' incentives to participate in the Program.

II. Summary of the Proposal, Comments Received, and Discussion

On June 15, 2026, the Commission proposed to amend part 165 of its Regulations to increase the Program's overall efficiency, transparency, and predictability (''Proposal'' or ''NPRM'').[24] Specifically, the Commission proposed adding new rule 165.9(d) to establish a 30 percent presumption (the ''30 Percent Presumption,'' defined further below) for whistleblowers under certain

[9] *Id.* 165.9(b). The rule specifies subfactors that the Commission may consider in assessing each positive factor.

[10] *Id.* 165.9(c). The rule specifies subfactors that the Commission may consider in assessing each factor that may decrease an award.

[11] *See* Whistleblower Incentives and Protection, 76 FR 53172, 53188 (Aug. 25, 2011) (''The Commission anticipates that the determination of award amounts . . . will involve highly individualized review of the circumstances surrounding each award.'').

[12] *See* 17 CFR 165.7(e)(1), (2), (f)(2), (g), (j) (specifying various WBO duties).

[13] *Id.* 165.7(f)(2).

[14] *See id.* 165.7(g)(1), (i); *id.* 165.15(a)(2).

[15] *Id.* 165.7(g)(2). A claimant's failure to submit a timely response to the Preliminary Determination results in the Preliminary Determination becoming either the Final Order of the Commission or, if an award was recommended, a Proposed Final Determination. *Id.* 165.7(h).

[16] *Id.* 165.7(j).

[17] *Id.* 165.7(i), (j).

[18] *Id.* 165.7(k).

[19] This figure reflects awards in Commission enforcement actions and Related Actions as defined in 7 U.S.C. 26(a)(5) and 17 CFR 165.2(m).

[20] Press Release, CFTC, CFTC Awards $4M to Two Whistleblowers (Nov. 12, 2024), available at *https://www.cftc.gov/PressRoom/PressReleases/9006-24.*

[21] *See, e.g.,* Testimony of Michael Selig, Chairman of the CFTC, before House Agriculture Committee (Apr. 14, 2026) (remarks of Congressman Zach Nunn), available at *https://www.pbs.org/newshour/politics/watch-live-cftc-chairman-testifies-before-house-panel-amid-scrutiny-of-prediction-markets,* 3:16:28 mark); CFTC Whistleblower Protection and Program Improvement Act of 2026, S. 5161, 119th Cong. § 4 (2026) (specifying one-year general deadlines for Preliminary Determinations and Final Orders).

[22] *See* 7 U.S.C. 26(c)(1)(A), 17 CFR 165.9.

[23] *See* 17 CFR 165.7(g)(2).

[24] *See* Whistleblower Award Determination, 91 FR 35914 (June 15, 2026) (Notice of Proposed Rulemaking).

conditions and to redesignate existing rule 165.9(d) as rule 165.9(e). The NPRM also proposed technical corrections to the whistleblower rules to update regulatory references to reflect the WBO move in 2025, consistent with its adjudicatory functions, to the OGC.

The comment period for the Proposal closed on July 15, 2026. The Commission received nine responsive comments.[25] As discussed in more detail below, most commenters generally supported proposed new rule 165.9(d) and the 30 Percent Presumption.[26] One commenter criticized the proposal.[27]

A. New Rule 165.9(d): The 30 Percent Presumption

The Commission proposed new rule 165.9(d), which the Commission modeled on an existing provision in the SEC whistleblower program rules. Under proposed new rule 165.9(d), the Commission is adopting a presumption under which any awardees would receive, in total, the 30 percent statutory maximum when (1) the amount collected in any Covered and Related Action(s), in the aggregate, would yield a maximum award of $5 million or less,[28] and (2) the awardee(s) meet certain conditions, set out in proposed new rule 165.9(d)(1)(ii)–(iv). Based on these conditions, the 30 Percent Presumption would apply unless: (1) a reduction would otherwise be warranted under rule 165.9(c)(1), the claimant interfered with internal compliance or reporting systems under rule 165.9(c)(3), or the claim triggers rule 165.17 (concerning awards to whistleblowers who engage in culpable conduct); (2) the claimant engaged in unreasonable reporting delay under rule 165.9(c)(2);[29] or (3) the Commission determines that applying the presumption would be inappropriate either because the claimant's assistance was limited or because such an award would otherwise be inconsistent with the public interest or the objectives of the Program. If a whistleblower matter that falls within the $5 million threshold for the 30 Percent Presumption has multiple awardees and at least one meets the conditions of proposed new rule 165.9(d)(1)(ii)–(iv), the total aggregate award will be set at the maximum 30 percent level. If any of the awardees do not satisfy the conditions in proposed new rule 165.9(d)(1)(ii) and (iii), the Commission will allocate a greater share of the 30 percent award to those awardee(s) who do. The Commission will assess the amount for the awardees who do not satisfy the conditions in proposed new rule 165.9(d)(1)(ii) and (iii) by considering all relevant facts.

As discussed in the Proposal, the Commission expects new rule 165.9(d) will enhance the efficiency, transparency, and predictability of the Program and will reduce the delay in processing awards, thereby incentivizing whistleblowers to report violations to the Commission. First, the Commission expects the 30 Percent Presumption will materially reduce the time for award determinations by improving Commission staff's efficiency in processing award applications and thereby enabling Commission staff to more timely process larger, complex claims.[30] Second, the Commission anticipates that the amendment will reduce delays in granting awards to meritorious whistleblowers, incentivizing potential whistleblowers to report violations.[31] Third, by making award percentages more transparent and predictable through the 30 Percent Presumption for claims at or below the $5 million threshold, proposed new rule 165.9(d) aims to strengthen whistleblower incentives to report violations, as historical award data suggests the rule would have resulted in higher payments in approximately 30 percent of eligible matters.[32] Fourth, proposed new rule 165.9(d) is tailored to improve Program efficiency, transparency, and predictability without sacrificing Program integrity or public interests by (1) conditioning operation of the 30 Percent Presumption on satisfaction of the specific safeguarding criteria and (2) retaining the Commission's discretion in issuing whistleblower awards to ensure the public interest is protected.[33] Fifth, proposed new rule 165.9(d) would better align the CFTC and the SEC whistleblower programs—a goal that is consistent with the spirit of the Memorandum of Understanding between the CFTC and SEC to guide inter-agency coordination and collaboration.[34]

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[25] *See* comments posted on *Regulations.gov* from Emily Stulz (posted June 23, 2026) (''Stulz Comment''); Stephen Hasegawa, Partner at Phillips & Cohen LLP (posted July 14, 2026) (''Hasegawa Comment''); Constantine Cannon LLP (posted July 14, 2026) (''Constantine Cannon Comment''); National Whistleblower Center and Kohn, Kohn, and Colapinto (posted August 10, 2026) (''National Whistleblower Center Comment''); Meagan Nugent (posted July 14, 2026) (''Nugent Comment''); Better Markets (posted July 20, 2026) (''Better Markets Comment''); The Anti-Fraud Coalition (posted July 20, 2026) (''TAF Coalition Comment''); H Street Law PLLC (posted July 20, 2026) (''H Street Law Comment''); and An Individual Retail Derivatives Market Participant (posted July 20, 2026) (''Anonymous Comment''). An additional comment, submitted by BSM Supervisao de Mercados (''BSM Comment''), a self-regulatory organization of Brazilian capital markets, did ''not aim to discuss directly'' the proposed amendments but to explain its own reporting model (which does not include financial award to whistleblowers) with the intention of supporting the CFTC in developing initiatives aimed at maintaining market integrity and protecting investors.'' BSM Comment at 1–2 (posted July 20, 2026) (''BSM Comment''). While the BSM Comment did not directly address the Commission's proposal, the Commission appreciates BSM's input and collaborative intent.

[26] *See* National Whistleblower Center Comment at 2 (stating that ''the 30 Percent Presumption provides greater clarity and predictability for whistleblowers and their counsel, helping them understand at the outset what potential reward they can reasonably expect''); Hasegawa Comment (believing ''that the Commission is correct that the Proposed Rule will save staff time and will allow the Commission to shift resources to the evaluation of whistleblower awards in larger cases [and sharing the] hope that this, in turn, will alleviate delays in resolution of award claims in larger matters, and ultimately will reinforce incentives for whistleblowers to come forward with information that aids the Commission's enforcement of the commodities laws[,] I support the Proposed Rule''); Constantine Cannon Comment at 2 (''We . . . fully support the proposed 30% presumption [and] believe the agency's reasoning strongly supports the rule change and the benefits it will bring to the program.''); Nugent Comment at 1 (writing ''in support of the Commission's proposed amendments to 17 CFR Part 165, specifically the new 30 Percent Presumption at proposed section 165.9(d)''); Better Markets Comment at 1 (''We agree with the Commission that the rule will increase the whistleblower program's overall efficiency, transparency, and predictability and potentially enhance whistleblowers' incentives to report unlawful conduct; as a result, the Commission should adopt the rule.''); TAF Coalition Comment at 2 (''We support the Whistleblower Rule Amendment, proposed new rule 165.9(d).''); Anonymous Comment at 1 (''This comment supports the proposed 30 Percent Presumption.''); H Street Law Comment at 2 (characterizing the 30 Percent Presumption as ''a welcome improvement'').

[27] *See* Stulz Comment.

[28] *See* new rule 165.9(d)(1), (2). A $5 million threshold for a 30 percent award corresponds to approximately $16.66 million in collected monetary sanctions. Collections would fall under $16.66 million if the total monetary sanctions imposed are less than this amount. Even if monetary sanctions exceed this amount, DOE staff who worked on an action may have learned enough about the assets of the responsible parties to reasonably anticipate that less than $16.66 million will ever be collected. If so, this fact would appear in the record supporting the Proposed Final Determination and enable the Commission to ''determine[ ] that it does not reasonably anticipate that future collections would cause the statutory maximum award to be paid to any whistleblower to exceed $5 million in the aggregate'' under new rule 165.9(d)(1)(i).

[29] This exclusion may be waived at the Commission's discretion based upon the claimant demonstrating that, in the circumstances, doing so is consistent with the public interest and the Program's objectives. *See* new rule 165.9(d)(1)(iii).

[30] 91 FR at 35917.

[31] *Id.*

[32] *Id.* at 35917–35918; *see also* National Whistleblower Center Comment at 2 (''The presumption aligns with that well-established fact, recognized by the SEC in a 2022 rulemaking, that high rewards increase the likelihood of whistleblowers coming forward to regulators with their information.'').

[33] *Id.* at 35918.

[34] *See* CFTC–SEC Harmonization Initiative, available at *https://www.cftc.gov/harmonization.*

B. Comments Received

The Commission received nine responsive comments. Most commenters generally supported proposed new rule 165.9(d) and the 30 Percent Presumption, while one criticized the proposal.

Constantine Cannon, H Street Law, Stephen Hasegawa of Phillips & Cohen LLP, the National Whistleblower Center and Kohn, Kohn, and Colapinto (''National Whistleblower Center''), Meagan Nugent, The Anti-Fraud Coalition (''TAF Coalition''), Better Markets, and an anonymous individual retail derivatives market participant supported the Commission's adoption of the 30 Percent Presumption. Constantine Cannon, a law firm that represents CFTC whistleblowers, ''fully support[ed] the proposed 30% presumption,'' agreeing with the Commission that ''the extended delay in [the Commission's] awards determination process poses a significant disincentive for would-be whistleblowers to report violations'' and noting that ''potential whistleblowers . . . look to timing considerations as a significant factor in assessing whether it is worth it for them to move forward under the whistleblower program.'' [35] The National Whistleblower Center praised the 30 Percent Presumption, concluding that ''[t]his reform serves the central purpose of the CEA's award provisions: ensuring that whistleblowers can rely on a meaningful and predictable opportunity when they assume the substantial personal and professional risks of reporting.'' [36] Similarly, H Street Law described the 30 Percent Presumption as ''a welcome improvement'' and expressed support for ''the Commission's efforts to enhance the efficiency, transparency, and predictability of whistleblower claim processing, and to preserve and enhance whistleblower incentives.'' [37] Hasegawa likewise expressed support, stating that he ''appreciate[d] the Commission's Proposed Rule establishing a presumptive 30% award in matters in which the aggregate award will total no more than $5 million'' and that ''the Commission is correct that the Proposed Rule will save staff time and will allow the Commission to shift resources to the evaluation of whistleblower awards in larger cases.'' [38] Better Markets similarly agreed with the Commission ''that the rule will increase the whistleblower program's overall efficiency, transparency, and predictability and potentially enhance whistleblowers' incentives to report unlawful conduct'' and that the 30 Percent Presumption ''will materially reduce the time for award determinations by improving the Commission staff's efficiency in processing award applications.'' [39] And TAF Coalition, whose membership includes two former CFTC WBO Directors, ''applaud[ed] the Commission's decision to model the Whistleblower Rule Amendments on a similar provision in the [SEC's] regulations,'' noting that ''[t]he CFTC's Whistleblower Program has a long history of modeling its rules, processes, and award determinations on the SEC's regulations, internal operations, and determinations that have proven to be effective and provide efficiency.'' [40]

Individual commenters also provided detailed support that tracked the Commission's specific rationale for the Proposal.[41] Meagan Nugent strongly supported proposed new rule 165.9(d), writing that, among other things, the ''SEC's own experience with the model rule confirms the approach works,'' and that the ''built-in safeguards prevent overreach.'' [42] And the anonymous individual retail derivatives market participant supported adoption of the 30 Percent Presumption, agreeing with the Commission that ''greater predictability may increase willingness to report and to apply for an award,'' and that ''a potential whistleblower cannot readily value an award within a discretionary range of 10 to 30 percent, but can understand a presumptive 30 percent outcome for claims within the proposed threshold.'' [43]

Despite their overall support, several commenters suggested modifications to the Proposal. The most commonly raised concern among supporting commenters was that the 30 Percent Presumption was ''unlikely on its own to resolve'' whistleblower award delays.[44] These commenters suggested additional modifications to proposed new rule 165.9(d) to further target delays in issuing whistleblower awards. The proffered refinements were to adopt specific time requirements, such as six months, for issuing Preliminary Determinations and making final awards; [45] raise the maximum award level for application of the 30 Percent Presumption from $5 million to $15 million in awards; [46] and provide for annual adjustment of the $5 million threshold to guard against erosion of the proposed rule's intended benefits over time.[47]

Commenters also suggested additional rule refinements.[48] Hasegawa suggested adding a provision to eliminate the potential ''unintended inconsistency in whistleblower awards'' that could arise under proposed new rule 165.9(d) for meritorious whistleblowers in a subset of matters.[49] For instance, Hasegawa observed that a whistleblower whose submission led to a recovery of $16.66 million in collected proceeds would be eligible under the presumption to receive approximately $5 million, whereas a whistleblower whose information led to a recovery of $17 million in collected proceeds could receive as little as $1.7 million, based on the statutory minimum of a 10 percent award.[50] The anonymous individual

[35] Constantine Cannon Comment at 2.

[36] National Whistleblower Center Comment at 1.

[37] H Street Law Comment at 1, 2. H Street Law also ''share[d] the timing concerns raised by Constantine Cannon LLP.'' *Id.* at 1. H Street Law wrote that ''many whistleblowers have noted [current] delay[s] as a significant disincentive to reporting unlawful conduct.'' *Id.* at 2.

[38] Hasegawa Comment.

[39] Better Markets Comment at 1, 2.

[40] TAF Coalition Comment at 1–2.

[41] *See* Nugent Comment at 1; Anonymous Comment at 1.

[42] Nugent Comment at 1. Nugent cited the SEC's 2021 Annual Report to Congress and noted that ''the [30 percent] presumption's application rate in qualifying cases climbed from 46 percent to 89 percent, with the SEC reporting increased consistency, greater transparency for claimants and counsel, and faster processing.'' *Id.* at 3.

[43] Anonymous Comment at 1.

[44] H Street Law Comment at 2; *see also* Constantine Cannon Comment at 2 (doubts ''that the 30% presumption will go far enough in tightening up the existing delay in making award decisions'' as evidenced by ''still significant delays under the SEC whistleblower program even though it has used the 30% presumption for several years''); Better Markets Comment at 2 (the Commission could ''go even further'' to reduce the time for award determinations).

[45] Constantine Cannon Comment at 2; H Street Law Comment at 1–2 (endorsing Constantine Cannon's suggestion). Constantine Cannon additionally advocated that the Commission adopt the Department of Justice's (DOJ's) ''much simpler'' process for making ''whistleblower (Relator) share determinations under the False Claims Act''—which it characterized as ''often just a simple back and forth between the whistleblower (and their counsel) and the DOJ attorneys''—as a ''useful model for how the CFTC might improve its approach.'' Constantine Cannon Comment at 3.

[46] Better Markets Comment at 2.

[47] H Street Law Comment at 1.

[48] *See* Hasegawa Comment; Anonymous Comment. Another comment requested the Commission link the proposed new rule to an increase in the statutory CPF from $100 million to $300 million. H Street Law Comment at 1. The statutory CPF cap amount is, however, beyond the scope of the Commission's authority to alter; doing so requires an act of Congress, *see* CEA section 23(g)(3)(A), 7 U.S.C. 26(g)(3)(A), which H Street Law acknowledged. *See* H Street Law Comment at 1 (''We support a legislative increase in the CPF threshold . . . .'').

[49] Hasegawa Comment.

[50] *Id.* The maximum award under the 30 Percent Presumption rule is $5 million, which corresponds to collections of about $16.66 million. It is mathematically possible that a whistleblower who would qualify for the presumption but for

Continued

retail derivatives market participant recommended the Commission adopt changes to provide (1) that when the Commission does not apply the presumption, the Preliminary Determination should identify the particular provision relied upon and briefly explain the material facts supporting that conclusion and (2) that a complete and well-organized initial submission should not be found to reflect ''limited'' assistance solely because Commission staff did not request supplemental cooperation from the whistleblower.[51]

C. Discussion

Upon consideration of comments received, the Commission is adopting new rule 165.9(d) as proposed. As noted above, the comments received were broadly supportive of the rule and its core rationale of promoting the efficiency and transparency of the Program and reducing delay in processing whistleblower claims.

First, the Commission expects that new rule 165.9(d) will materially reduce the time for award determinations by improving the Commission staff's efficiency in processing award applications. This will enable the Commission to process claims more quickly. The reasons for the Commission's expectation are described below.

The SEC's experience under its own rule demonstrates the 30 Percent Presumption is likely to increase consistency and transparency and reduce delays. The Commission's expectation for improved efficiency and shortened award times is based, in part, on the SEC's experience after that agency adopted a similar presumption.[52] A year after promulgating rule 21F–6(c), the SEC reported that the ''30% presumption has had a significant impact on [its] whistleblower program,'' ''allowed for increased consistency among awards and greater transparency to claimants and their counsel,'' and ''assisted . . . in expediting the processing of award claims.'' [53] Commenters also described the SEC's ''parallel experience'' as a ''genuine natural experiment with a comparable federal whistleblower program [that] strongly supports the Commission's expectation that its own presumption will produce similar efficiency gains.'' [54]

While one commenter noted that ''there are still significant delays under the SEC whistleblower program,'' the commenter did not deny that the SEC's 30 percent presumption has reduced delays.[55] Nor did the commenter explain or provide quantitative information for its assertion that the SEC whistleblower program still experiences ''significant delays.'' The Commission therefore cannot evaluate the validity of this claim.

A significant portion of meritorious whistleblower claimants are likely to fall within the 30 Percent Presumption. As discussed in more detail in its Consideration of Benefits and Costs,[56] the Commission's historical experience suggests that the 30 Percent Presumption is likely to apply to a sizeable portion—around 82 percent—of meritorious whistleblower claims. For these claims, the new rule will truncate the staff-intensive, frequently time-consuming process of determining an appropriate award percentage because the scope of analysis will be narrowed. TAF Coalition concurred in the Commission's assessment, writing that, based on members' relevant experience under part 165, precise award percentages are determined through a process that is indifferent to the size of the claim, requiring essentially the same degree of Commission staff time and attention to determine award percentage levels with the same time dedication and precision for both large and smaller awards and WBO attorneys and others who participate in the award process must analyze the factors that may increase the amount of a whistleblower's award irrespective of the size of an award.[57]

The 30 Percent Presumption will streamline the analysis required for a significant portion of meritorious whistleblower claims. Under new rule 165.9(d), award-determination analysis will be narrowed: for claims within the $5 million threshold, the only rule 165.9(b) factor Commission staff will need to consider is whether the whistleblower's assistance was more than ''limited.'' [58] Commission staff will not be required to assess the whistleblower's degree of assistance at a more granular level.[59] Nor will Commission staff be required to make award percentage recommendations relating to the significance of the whistleblower's information, the Commission's law enforcement interest, or the whistleblower's participation in internal compliance systems.[60] As a result, Commission staff can spend less time analyzing criteria factors that may increase the amount of a whistleblower award within the statutory range of 10 to 30 percent; and the OGC's legal sufficiency review, described above, also will be simplified insofar as the analysis of the award percentage is streamlined.[61]

The 30 Percent Presumption is anticipated to help reduce requests to contest Preliminary Determinations of recommended award percentages for a significant share of claims. Applying the 30 Percent Presumption to meritorious claims is expected to reduce incentives for claimants to contest Preliminary Determinations or request reconsideration in cases where the Preliminary Determination does not provide for the statutory maximum award. Indeed, the Commission's analysis of the distribution of past awards indicates that, had new rule 165.9(d) been in effect since the Program's inception, approximately 30 percent of the matters with awards of $5 million or less would likely have resulted in higher award payments—*i.e.,* at the statutory maximum of 30 percent based on the Presumption. Some of the claimants in that subset of matters contested their awards; had the 30 Percent Presumption been in operation, those claimants would have had no

collections exceeding $16.66 million would receive an award of less than 30 percent and less than $5 million.

[51] Anonymous Comment at 4–5. The comment reasons that, absent the first ''discipline[], the discretionary grounds for displacing the presumption could reintroduce the uncertainty the proposal is intended to reduce''; and, regarding the second that a complete and well-organized initial submission may provide substantial assistance precisely because it enables staff to proceed without repeated follow-up, and the absence of requests for supplemental cooperation should not, standing alone, support a finding under proposed rule 165.9(d)(1)(iv)(A) that assistance was limited.'' *Id.* at 1.

[52] Whistleblower Program Rules, 85 FR 70898, 70911–70912 (Nov. 5, 2020) (promulgating, among other rules, SEC rule 21F–6(c), codified at 17 CFR 240.21F–6).

[53] Securities and Exchange Commission, 2021 Annual Report to Congress Whistleblower Program, 18 (2021), available at *https://www.sec.gov/reports?aId=edit-tid&year=All&field_article_sub_type_secart_value=Reports+and+Publications-AnnualReports&tid=59.*

[54] *See* Nugent Comment at 2–3; *see also* TAF Coalition Comment at 3 (''[T]he proposed rule amendment, following the SEC's result, should shorten the time required by the CFTC to resolve and pay awards on small, meritorious whistleblower claims by limiting the scope of analysis over the appropriate award percentage.'').

[55] *See* Constantine Cannon Comment at 2.

[56] *See infra* Section IV.C.

[57] *See* TAF Coalition Comment at 2.

[58] New rule 165.9(d)(1)(iv).

[59] *See* 17 CFR 165.9(b)(2).

[60] *See id.* 165.9(b)(1), (3), (4).

[61] By designating a 30 percent maximum award for all matters within the $5 million threshold unless the 30 Percent Presumption is overcome, new rule 165.9(d) will limit the scope of analysis required to determine appropriate award percentages for the significant portion of claims subject to awards of $5 million or less.

reason to contest the Preliminary Determination award percentage.

Reconsideration requests require additional Commission staff time and resources to consider the issues and grounds advanced in the claimant's response, along with any supporting documentation the claimant provided.[62] With fewer Preliminary Determinations subject to contests, the Commission anticipates that staff resources that otherwise would be required to handle reconsideration requests can be redirected to more timely process awards in other matters. Commenters addressing this point largely agreed: TAF Coalition, for instance, reasoned that ''[t]he resource savings for matters with small awards and the receipt of fewer Requests for Reconsideration would free WBO and Commission staff to concentrate more on larger awards, facilitating the WBO's and Commission's ability to assess and pay larger awards more quickly.'' [63]

Streamlining the award process for claims subject to the 30 Percent Presumption will help support whistleblowers' incentives to report violations. First, as mentioned above, by reducing the staff time and resources necessary to address claims in the significant portion of meritorious claims that the Commission expects to qualify for the 30 Percent Presumption, the Commission will be able to devote resources to other whistleblower matters. This includes assessing and awarding claims in larger, potentially more complex, matters. With the benefit of more focused staff attention, the Commission expects accelerated processing of these matters as well.

Second, the Commission anticipates that new rule 165.9(d) will guard against erosion of whistleblowers' incentives to report violations to the Commission. As discussed in the Consideration of Benefits and Costs section, extended delays in making awards determinations following a whistleblower's claim submission diminish the overall value of the award due to the time-value of money.[64] This reduction may adversely affect incentives for individuals to report illegal activity, as noted by several commenters.[65] Consequently, significant delays may lead prospective whistleblowers to determine that the reduced valuation resulting from longer wait times does not justify the associated risks of disclosure. Insofar as the 30 Percent Presumption reduces award application processing times for all claims (small and large), as the Commission expects, potential whistleblowers will be more likely to find it worthwhile to report violations and apply for awards.[66]

Third, by designing new rule 165.9(d) to enhance Program transparency and predictability, the Commission seeks to enhance the incentives for whistleblowers to report violations to the Commission. The criteria considered in determining award amounts are enumerated in new rule 165.9 and are publicly available on the Commission's whistleblower website, making them easily accessible to potential whistleblowers and their counsel.[67] With greater visibility into the types of awards that may receive the statutory cap, whistleblowers will have greater predictability in assessing potential rewards for the submission of tips to assist the Commission's enforcement mission.[68] The Commission anticipates that this is likely to increase whistleblowers' willingness to participate in the Program. Analysis of the distribution of past awards supports new rule 165.9(d)'s potential to encourage whistleblower participation: had new rule 165.9(d) been in effect since the Program's inception, approximately 30 percent of the matters with awards of $5 million or less would likely have resulted in higher award payments.

Fourth, new rule 165.9(d) is tailored to preserve Program integrity and avoid any conflict with the public interest.[69] This tailoring is achieved in two ways: (1) operation of the 30 Percent Presumption is conditioned on a whistleblower's satisfaction of the safeguarding criteria specified in subparagraphs 165.9(d)(1)(ii)–(iii) and (2) the Commission retains discretion to determine appropriate award percentages as described in subparagraphs 165.9(d)(1)(iii) and (iv). With respect to the first factor, the Commission considers it inappropriate to extend the benefit of the presumption to claimants who were culpable in the violation, who interfered to a degree with internal compliance or reporting systems, or (absent justifying case-specific circumstances) who delayed reporting. Moreover, conditioning the presumption on the absence of unreasonable reporting delays is intended to incentivize prompt reporting. With respect to the second factor, the Commission retains overall discretion in establishing award percentages to incentivize strong and sustained whistleblower assistance in the Covered Action or Related Action, *see* subparagraph 165.9(d)(1)(iv)(A), and to provide an overarching safeguard to protect the public interest and the

[62] *See* 17 CFR 165.7(i); *see also* TAF Coalition Comment at 3 (''Requests for Reconsideration take an extraordinary amount of time and resources for the WBO attorney staff to review, process, and prepare a recommendation for Commission consideration.'').

[63] TAF Coalition Comment at 3.

[64] *See infra* Section IV.C.

[65] *See* Constantine Cannon Comment at 2 (''The agency is correct that the extended delay in its awards determination process poses a significant disincentive for would-be whistleblowers to report violations. We know this firsthand from our own dealings with potential whistleblowers who look to timing considerations as a significant factor in assessing whether it is worth it for them to move forward under the whistleblower program.''); Nugent Comment at 3 (''Delay is not a neutral inefficiency; it directly reduces the present value of an eventual award and, as the Commission recognizes, can deter exactly the kind of prompt, high-quality reporting the Program exists to encourage.'').

[66] *Accord* Nugent Comment at 3 (''A rule that measurably shortens that timeline for the great majority of smaller claims—freeing staff time to focus on the largest, most complex matters—is a direct and well-tailored response to a real problem [*i.e.,* the reporting disincentive delay can engender].'') One comment posits that, absent hard deadlines for the Commission to complete certain steps in the award process, ''would-be whistleblowers [could still be dissuaded] from coming forward'' after new rule 165.9(d) is effective. Constantine Cannon Comment at 2. The concern apparently stems from the underlying premise that ''significant delays''—a concept the comment does not further define or explain, as noted previously—still occur in the SEC whistleblower program. Absent stronger support for this underlying premise (including the likelihood and relative degree of the potential dissuasion that the commenter expects would linger with new rule 165.9(d) in effect), the Commission is unable to assess and assign weight to the concern.

[67] *See* Commodity Futures Trading Commission Whistleblower Program, Preliminary Decisions, *https://www.whistleblower.gov/overview/preliminarydeterminations* (FAQs: ''What factors does the CFTC consider in determining the amount of the award''). *See also* 7 U.S.C. 26(d) (delineating whistleblowers' right to be represented by counsel). Because attorneys—who may submit tips and other information to the Program for their anonymous clients (*see id.* 26(d)(2))—frequently represent whistleblowers on a contingency basis, the Program's process and award-size potential affects attorneys' incentives as well as whistleblowers'.

[68] As a practical matter, both Preliminary Determinations and Final Orders granting awards less than 30 percent to meritorious whistleblower claimants should provide—in circumstances where the Commission determines the 30 Percent Presumption inapplicable based on operation of the conditions set out in new rule 165.9(d)(1)(ii)–(iv)—the reasons for the Commission's determination. *See* 17 CFR 165.7(g)(1) (calling for the CRS's ''assessment'' in its Preliminary Determination); *id.* CFR 165.7(i) (calling on the CRS to ''consider the issues and grounds advanced in the claimant's response'' when a claimant contests the Preliminary Determination). In any event, Preliminary Determinations and Final Orders are subject to reconsideration and appeal, respectively. *See id.* 165.7(g)(2) (stating claimants' right to contest Preliminary Determinations); *id.* 165.13 (stating claimants' right to appeal Final Orders to a federal court of appeals with Preliminary Determinations to be included in the record on appeal).

[69] *See* Nugent Comment at 3 (''The retained safeguards are the right way to balance speed against integrity.'').

Program's integrity, *see* subparagraph 165.9(d)(1)(iv)(B).[70]

Fifth, new rule 165.9(d) will further harmonize the CFTC and the SEC whistleblower programs, which were both enacted by the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010 (''Dodd-Frank Act'').[71] Doing so is consistent with the spirit of the Memorandum of Understanding between the CFTC and SEC to guide inter-agency coordination and collaboration.[72] As noted above, SEC rule 21F–6(c) currently provides for a conditional 30 percent presumption for matters where the 30 percent award would yield a total payment of $5 million or less and served as the model for new rule 165.9(d).[73] Because it is not unusual for affiliated market participants or entities to be subject to regulation or oversight by both the CFTC and the SEC (and unlawful conduct by some actors may implicate the jurisdiction of both agencies), the Commission views consistency between the two whistleblower programs to be of value.[74] By modeling new rule 165.9(d) on the SEC's corresponding provision, the Commission intends to incentivize whistleblower participation in the Program by ensuring that potential whistleblowers perceive the Program as equally worthwhile and accessible as the SEC whistleblower program.[75]

Finally, the Commission is unconvinced that commenters' various suggested modifications would improve new rule 165.9(d) materially, if at all. And, in some cases, the Commission believes that alternatives offered by commenters could undermine the goals of this rulemaking. The Commission discusses its reasons for declining to adopt these commenters' recommendations below.

Specific Time Requirements. Constantine Cannon recommended that the Commission adopt specific time limits, such as six months, for issuing Preliminary Determinations and making final awards.[76] The Commission declines to adopt this recommendation.

Because award determinations are not one-size-fits-all,[77] establishing a uniform timeframe within which Preliminary Determinations and Final Orders must be issued will not help the Commission manage its caseload of claims or ensure reasoned decision-making, even with options for reasonable extensions of time in certain cases.[78] Award determinations vary in complexity; some, for example, require extensive information gathering from outside sources that can be time-consuming. Because the complexity of claims and the time needed to resolve claims vary significantly, mandating resolution of claims (particularly more complex ones) within a strict timeframe risks undermining Program integrity.[79] Moreover, adopting additional procedural requirements could undermine new rule 165.9(d)'s efficiency goals by requiring Commission staff to justify extensions of time or to defend against legal challenges regarding what constitutes a ''reasonable extension[ ] of time'' in ''legitimate[ ]'' matters.[80] Accordingly, the Commission is not persuaded that establishing new time limits would be beneficial or appropriate for the Program.

The Commission also concludes that Constantine Cannon's suggestion to model the CFTC's process on the DOJ's administration of the False Claims Act (''FCA'') is inapposite and beyond the scope of this rulemaking.[81] In this rulemaking, the Commission proposed to improve the existing award process by incorporating the 30 Percent Presumption within part 165 of its Regulations. Further, because the whistleblower programs enacted as part of the Dodd-Frank Act—including both the CFTC's and SEC's [82]—do not contain an equivalent to the False Claims Act's *qui tam* mechanism, the Commission does not view the DOJ's process as an appropriate model for administering the Program. Under CEA section 23,[83] determining whether a claimant is eligible for an award requires a factual inquiry and application of the statute and whistleblower rules by Commission staff.[84] Depending on how a *qui tam* litigation proceeds (*i.e.,* whether the government intervenes), whistleblower awards (as Constantine Cannon notes) are based on negotiations with ''the DOJ attorneys who worked on the matter and are best situated to assess the whistleblower's contribution and appropriate share of the recovery within the statutory range'' and can take ''weeks'' or ''months'' to resolve.[85] This structure differs from that of both the CFTC and SEC whistleblower programs, which were enacted by the Dodd-Frank Act.[86] Adopting such a structure would undermine the goal of further harmonization with the SEC whistleblower program and sacrifice the associated benefits for market participants.[87]

Annual inflation adjustments of the $5 million threshold. H Street Law suggested that the Commission

[70] The Commission equates the meaning of the term ''public interest'' in subparagraphs (d)(1)(iii)'s and (iv)'s to the considerations delineated in CEA section 15(a)(2), 7 U.S.C. 19(a)(2)—*i.e.,* protection of market participants and the public; efficiency, competitiveness, and financial integrity of markets; price discovery; sound risk management practices; and other public interest considerations.

[71] The programs are codified at 7 U.S.C. 26 and 15 U.S.C. 78u–6, respectively. The SEC and CFTC whistleblower programs share a common statutory origin, having been enacted contemporaneously by the Dodd-Frank Act to achieve common policy objectives—namely, to incentivize the disclosure of violations and deter misconduct in the financial markets. This shared origin, the parallel structure of the two programs, and the fact that certain market participants and conduct fall within the overlapping jurisdictional reach of both agencies support a harmonized interpretive approach.

[72] *See* Memorandum of Understanding between the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission Regarding Harmonization in Areas of Common Regulatory Interest (Mar. 11, 2026), available at *https://www.sec.gov/files/mou-sec-cftc-2026.pdf.*

[73] *See* 17 CFR 240.21F–6.

[74] This is particularly true because members of the legal bar who represent whistleblowers may be less likely to seek potential whistleblower clients for, or represent whistleblowers in, the CFTC's Program if they view it as less desirable than the SEC whistleblower program.

[75] *Accord* Nugent Comment at 3 (''A Commission program that is meaningfully less predictable than its SEC counterpart risks losing valuable tips to that uncertainty, or discouraging a report altogether. Aligning the $5 million threshold with the SEC's existing rule . . . removes an unnecessary source of that uncertainty[.]'').

[76] Constantine Cannon Comment at 2.

[77] In fact, the 30 Percent Presumption, is just that—a presumption. It does not eliminate Commission discretion to determine appropriate award percentages as described in section 165.9(d)(1), including where the Commission determines application of the 30 Percent Presumption is inappropriate or contrary to the public interest.

[78] *See* Constantine Cannon Comment at 2.

[79] Award consistency, fairness, and reasoned decision-making are foreseeable casualties in rushed scenarios.

[80] *See* Constantine Cannon Comment at 2 (''And to the extent there are matters where the agency legitimately needs more time, there can be accommodations built in to allow for reasonable extensions of time, perhaps as overseen by the CFTC Whistleblower Office.''). Similarly, to the extent a regulatory deadline could invite legal challenges in matters where claimants assert deadlines were not adhered to or prejudiced their award in some way, agency resources would be diverted, undermining the efficiency gains under new rule 165.9(d).

[81] *See id.* at 3.

[82] *See* Public Law 111–203, 124 Stat. 1376, 1739 (adding Section 23 to the CEA, codified at 7 U.S.C. 26), and 124 Stat. 1841 (adding Section 21F to the Securities Exchange Act of 1934, codified at 15 U.S.C. 78u–6).

[83] 7 U.S.C. 26.

[84] *See generally* 31 U.S.C. 3729 *et seq. See also* Dep't of Justice Criminal Resource Manual, ''932. Provisions for the Handling of Qui Tam Suits Filed Under the False Claims Act,'' available at *https://www.justice.gov/archives/jm/criminal-resource-manual-932-provisions-handling-qui-tam-suits-filed-under-false-claims-act.*

[85] Constantine Cannon Comment at 3.

[86] *See* section 748 of the Dodd-Frank Act, codified at 7 U.S.C. 26 (CFTC Whistleblower Program); section 922, codified at 15 U.S.C. 78u–6 (SEC Whistleblower Program).

[87] The Commission also notes that changes to its Program mirroring the FCA would likely require statutory changes, in addition to major restructuring of the Regulations.

incorporate an annual indexing provision into new rule 165.9(d) to prevent the ''real value of [the $5 million] threshold [from] erod[ing] over time.'' [88] The Commission declines to adopt this suggestion.

While annual inflation adjustments are a commonly used and readily automated regulatory tool, the Commission is not adopting automatic indexing for the $5 million threshold at this time. A fixed threshold promotes harmonization with the SEC's 30 percent presumption and avoids year-to-year boundary disputes in matters that span multiple calendar or fiscal years, thereby preserving the 30 Percent Presumption's goal of a simpler, faster process for small-dollar awards. The Commission believes that implementing indexing would still require recurring updates to internal guidance, forms, claimant communications, and award-calculation workflows to track which threshold applies at each stage of multi-year cases, resulting in administrative costs and complexity that run counter to those efficiencies. Because the threshold determines whether a claim receives the default 30 Percent Presumption or a full factor-by-factor analysis, annual changes would cause otherwise similar cases to toggle across index dates, invite disputes about the applicable threshold (*e.g.,* by claim, order, or collection date), and complicate case management. The Commission believes that maintaining a fixed $5 million threshold preserves predictable incentives and operational stability. In addition, the SEC whistleblower program rules do not provide for automatic inflation indexing, so adopting such a provision would not further the Commission's harmonization goals. To the extent, however, the Commission determines in the future that the $5 million threshold has failed to keep pace with inflation, the Commission retains its statutory authority to engage in rulemaking to update the threshold, as appropriate.

Ensuring that, where collections are above $16.66 million, the associated award is $5 million or more. The Hasegawa Comment expressed concern that a whistleblower who is entitled to the 30 Percent Presumption in a case where the Commission recovers $16.66 million in collected proceeds could obtain a larger settlement than a whistleblower in a case where the Commission recovers collections between $16.66 million to just under $50 million, but the whistleblower is not entitled to the 30 Percent Presumption due to the higher collection amount and is awarded less than the $5 million.[89] To address this concern, Hasegawa proposed that the Commission add a provision to new rule 165.9(d) under which ''the Commission shall apply its ordinary rules to evaluate and calculate awards in matters in which collected proceeds exceed the amount for which the presumption could apply, provided that, absent applicability of the same enumerated exceptions described in the Proposed Rule, the aggregate award in those cases shall fall within the statutory range and shall be no less than $5 million.'' [90] The Commission understands Hasegawa's proposal to require that the Commission ensure that a whistleblower in this circumstance be guaranteed a minimum recovery of $5 million.

Hasegawa's observation presents a mathematical possibility under new rule 165.9(d). But the Commission's experience in administering whistleblower awards to date has not substantiated this concern. Indeed, in prior matters where the aggregate award was below $5 million and collections in the underlying matters were over $16.66 million, the awardee(s) would not have satisfied new rule 165.9(d)(1)(ii)–(iv)'s conditions to qualify for a 30 percent award.

Furthermore, with new rule 165.9(d) in place, awardees in matters with collections between $16.66 million and $50 million will not receive less than they merit under the standard application of the criteria and positive factors in rule 165.9(a)–(b). As noted above, the Commission has not observed instances in which a meritorious whistleblower would have received less than a whistleblower qualifying for the 30 Percent Presumption. In addition, the Commission cannot credit the concern that the new rules will result in ''weaker incentives for whistleblowers to bring cases resulting in large recoveries than for whistleblowers whose information results in smaller recoveries.'' [91] Whistleblowers do not know at the time they bring their information whether it will contribute to a successful CFTC enforcement action, much less what the amount of collections will be. The 30 Percent Presumption will only be applied to increase awards that qualify; it will not operate to decrease any awards. As a result, it should only further incentivize whistleblowers to come forward. For these reasons, and to promote further harmonization with SEC rule 21F–6(c), the Commission declines to modify new rule 165.9(d) to provide for automatic increases for any awards where collections exceed the threshold for the 30 Percent Presumption.

Written explanation when the 30 Percent Presumption is not applied to a potentially eligible claim.[92] One commenter suggested that new rule 165.9(d) should require the Preliminary Determination to include a provision-specific written explanation in cases in which the 30 Percent Presumption is not applied to a potentially eligible claim. The Commission declines to adopt this suggestion.

Rule 165.7(g)(1) already requires that Preliminary Determinations ''set[ ] forth a preliminary assessment'' of each whistleblower claim.[93] This ''assessment'' entails the application of all relevant part 165 rules, including those in new rule 165.9(d) pertaining to the 30 Percent Presumption. Accordingly, the Commission disagrees with the contention that the requested modification is needed to avoid ''reintroduc[ing] the uncertainty the proposal is intended to reduce.'' [94] On the contrary, the existing part 165 framework, within which new rule 165.9(d) will operate, guards against such uncertainty. For this reason, and because the modification would unnecessarily reduce harmonization between new rule 165.9(d) and SEC rule 21F–6(c), the Commission declines to make this modification.

Assistance and cooperation. The anonymous commenter also recommended that the Commission clarify that limited assistance may not be inferred solely from the absence of requests for what the commenter calls ''supplemental cooperation.'' [95] The Commission declines to adopt this modification. New rule 165.9(d)(1)(iv)(A) provides for the Commission to consider ''the relevant facts and circumstances'' in determining whether an awardee's assistance was ''limited.'' Moreover, the Commission conducts a holistic review of each whistleblower claim, including the degree of assistance provided. Accordingly, the Commission does not find adoption of the proposed recommendation warranted.

Additional comments. Finally, several commenters requested that the Commission acknowledge or address certain topics in the final rule's

[88] H Street Law Comment at 1.

[89] Hasegawa Comment.

[90] *Id.*

[91] *Id.*

[92] Anonymous Comment at 1, 4–5.

[93] 17 CFR 165.7(g)(1); *id.* 165.13(b)(2) (noting that the record on appeal of any Final Order of the Commission relating to a whistleblower award determination shall consist of the Preliminary Determination and the Final Order of the Commission as set forth in § 165.7.).

[94] *See* Anonymous Comment at 1.

[95] *Id.* at 1, 4–5.

preamble, rather than in rule text. One requested that the Commission, in order to make the rule ''stronger and easier to evaluate going forward,'' commit to report annually on the rate at which the 30 Percent Presumption is applied or overridden and the impact on average award-processing times.[96] The Commission declines, however, to adopt additional reporting obligations as part of this rulemaking. Introducing additional administrative burden in this manner would undermine the goal of promoting Program efficiency. Another requested that the Commission specify that ''the final rule expresses no view on [whether a retail customer admitted directly as a self-clearing member is subject to the statutory whistleblower exclusion set out in CEA section 23(c)(2)(A)] is a 'member of a registered entity' and state that the Commission intends to solicit focused public input [on the issue] through a separate process'' [97]—an issue that the Commission notes is beyond the scope of this rulemaking.

The Stulz Comment asserted that the Commission's rules should ''protect whistleblowers from being targeted, not given money[, which incentivizes people] to make up things, or create problems that aren't actually there.'' [98] On this basis, Stulz argued that new rule 165.9(d) could ''increase the amount of fraudulent claims . . . [and] increase workload.'' [99] The Commission finds this comment unpersuasive. Under the CEA and the Commission's Regulations, whistleblowers enjoy robust protection, which proposed new rule 165.9(d) would in no way diminish if adopted.[100] In addition, the Commission considers the risk that the 30 Percent Presumption would trigger frivolous or fraudulent claims that significantly increase Commission staff workload to be slight for several reasons. First, the 30 Percent Presumption only affects award percentages for meritorious whistleblower claimants, not a whistleblower's eligibility for award.[101] Second, while the commenter expressed concern that frivolous reports may be filed to target disfavored individuals, Commission staff can typically screen out frivolous claims with limited effort before proceeding with a full inquiry. Finally, adverse incentives to file frivolous or fraudulent whistleblower claims are more likely to arise from higher-value awards, not the smaller-value awards of $5 million or less that the 30 Percent Presumption is designed to address.[102]

Additional Alternatives. In its Consideration of Benefits and Costs in Section IV.C below, the Commission also considers three additional alternatives: (1) hiring additional WBO staff to improve the agency's capacity to process claims; (2) applying the 30 Percent Presumption in matters where the award at the 30 percent maximum would be $2 million or less; and (3) applying the 30 Percent Presumption in matters where the award at the 30 percent maximum would be $15 million or less. As explained in its Consideration of Benefits and Costs, the Commission concludes that the 30 Percent Presumption is likely to be more effective in achieving the goals of this rulemaking than these alternatives.

III. Technical Amendments to Rules 165.10(a)(7) and 165.15

The NPRM also proposed technical corrections to its whistleblower rules to update references in part 165 to reflect the WBO's 2025 transfer from the DOE to the OGC, in light of the WBO's adjudicatory functions.[103] As a result of the WBO's transfer, several references in rules 165.10(a)(7) and 165.15 to the WBO's placement within the Commission's operating structure had become outdated. Accordingly, the Commission proposed technical corrections to remove several references to the DOE and to reflect the WBO's placement within the OGC.

The National Whistleblower Center expressed support for these technical corrections and the Commission's decision to locate the WBO in the OGC. It asserted that the move ''reinforce[s] the impartiality of award decisions . . . and legitimates the CFTC's award decisions.'' [104] In contrast, TAF Coalition criticized the WBO's move to the Office of the General Counsel. TAF Coalition stated that it ''disagree[d] strongly with Commission's decision to give general authority to administer the whistleblower program to the General Counsel, and accordingly, move the WBO from supervision by the Director of the [DOE], to the General Counsel.'' [105] TAF Coalition also asserted that the Commission's proposed technical corrections did not comport with notice-and-comment requirements under the Administrative Procedure Act.[106]

The Commission finds TAF Coalition's arguments unavailing. As a threshold matter, the Commission retains discretion to organize its staffing in the manner most appropriate for carrying out its legal mandates under the CEA.[107] The Commission exercised this discretion to transfer the WBO to the CFTC's OGC in 2025 to reflect the WBO's adjudicatory functions. The technical amendments merely reflect this reorganization. Moreover, TAF Coalition argues that the Commission's rules limit the OGC to performing legal sufficiency review and prohibit OGC staff from participating in the WBO claims review process in any other manner.[108] But neither the Commission's rules nor the CEA limit the OGC to performing legal sufficiency review, nor do they prohibit OGC staff from playing additional roles in the review process.[109] Accordingly, the Commission rejects TAF Coalition's argument.

In addition, the Commission provided notice to the public in the NPRM and an opportunity to comment on the technical corrections designed to reflect the move of the WBO to OGC and to reflect General Counsel supervision of WBO. While rules of agency organization, practice, and procedure

[96] Nugent Comment at 4. Doing so, according to the comment, ''would let the Commission, Congress, and the public confirm that the $5 million threshold continues to perform as modeled, and would provide a ready evidentiary basis for any future adjustment.'' *Id.*

[97] Anonymous Comment at 2.

[98] Stulz Comment.

[99] *Id.*

[100] *See* 7 U.S.C. 26(h); 7 CFR 165.20.

[101] Additionally, the act of filing a false claim renders a claimant ineligible for a whistleblower award. 17 CFR 165.6(a)(5).

[102] *See* 17 CFR 165.9(a)(5) (specifying ''[p]otential adverse incentives from oversize awards'' as a factor for the Commission to consider in determining award amounts); Whistleblower Incentives and Protection, 76 FR 53172, 53189 (Aug. 25, 2011) (Rule subsection 165.9(a)(5) was added to part 165 in response to comment from Senator Carl Levin expressing ''concern that excessive monetary incentives may lead to misreporting causing investigative waste.'').

[103] Keynote Address of Acting Chairman Caroline D. Pham, ISDA Annual General Meeting (May 15, 2025), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/opapham15.*

[104] National Whistleblower Center Comment at 3.

[105] TAF Coalition Comment at 3. TAF Coalition argued that General Counsel oversight of WBO staff is not consistent with Commission Regulations and that the OGC is not suited to supervising the WBO but should be limited to reviewing the WBO awards for ''legal sufficiency.'' *Id.* at 4–5.

[106] *See id.* (arguing that ''moving administration of the WBO from the Director of the DOE to the CFTC's General Counsel requires the CFTC to publish a Proposed Rule and provide the public with an opportunity for comment'')

[107] *See, e.g.,* 7 U.S.C. 2(a)(12) (''The Commission is authorized to promulgate such rules and regulations as it deems necessary to govern the operating procedures and conduct of the business of the Commission.''); *id.* 16(b)(1) (''The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.'').

[108] *See* TAF Coalition Comment at 3–4.

[109] *See, e.g., Estate of Jennions* v. *CFTC,* 183 F.4th 858, 866 (D.C. Cir. 2026) (determining that CFTC reasonably rejected claims of undue involvement by CFTC's OGC during the claims review process).

are generally exempt from the notice-and-comment requirements of the APA,[110] the Commission in its discretion chose to provide the public with an opportunity to comment on these technical revisions. Accordingly, the Commission finds TAF Coalition's procedural argument unconvincing.

For these reasons, the Commission declines to accept TAF Coalition's request to republish a notice regarding the technical corrections and is adopting these technical corrections to update references in part 165, as proposed.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''),[111] requires agencies to consider whether the rules they propose and promulgate will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis with respect to such impact. Section 604 of the RFA [112] requires an agency to undertake a final regulatory flexibility analysis of a rule's effects on small entities unless the Chairman certifies that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities.[113]

Only individuals are eligible for participation in the Commission's whistleblower program. The amendments would apply only to an individual, or individuals acting jointly, who provide information relating to the violation of the CEA or Commission regulations. By definition, companies and other entities cannot be whistleblowers.[114] Consequently, the persons that would be subject to the rule amendments are not ''small entities'' under the RFA.

Accordingly, the Chairman, on behalf of the Commission, hereby certifies under 5 U.S.C. 605(b) that the regulations, as adopted herein, will not have a significant economic impact on a substantial number of small entities. This document serves as notification to the Small Business Administration of the Commission's certification of no effect.

B. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA'') [115] imposes certain requirements on federal agencies including the Commission in connection with their conducting or sponsoring any collection of information as defined by the PRA. The rule amendments being adopted herein do not impose any new information collection requirements within the meaning of the PRA. Accordingly, the requirements imposed by the PRA are not applicable to this rule.

C. Consideration of Benefits and Costs

1. Introduction

CEA section 15(a) requires the Commission to consider the benefits and costs of its actions before promulgating a regulation under the CEA or issuing certain orders.[116] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five factors: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The discussion below addresses the Commission's statutory CEA section 15(a) obligation.[117]

As described above, the Commission is adopting new rule 165.9(d) to establish a presumption that, unless certain factors that may decrease an award are present, the Commission will set the award at the statutory maximum of 30 percent in matters where the total awards in the Covered Action and any Related Actions do not exceed $5 million. This new rule will improve the efficiency, transparency, and predictability of processing whistleblower award applications and to align the Commission's approach with SEC rule 21F–6(c).[118] Under the current framework, every meritorious claim, regardless of award size, undergoes an individualized, factor-by-factor review to determine an appropriate award percentage. Applying this highly tailored analysis to smaller-dollar matters, however, can be disproportionately resource-intensive and tax Commission resources—thereby extending timelines for issuing final awards. Delays, in turn, may weaken incentives for individuals to report violations. Reduced whistleblowing activity, should it occur, could impair the Commission's ability to enforce the CEA and its regulations effectively, diminish deterrence, and ultimately hinder the Commission's broader mission of protecting market participants and the public; supporting market efficiency, competitiveness, and market integrity; and ensuring sound price discovery and risk management.

With one exception, commenters did not directly address the Commission's consideration of the benefits and costs of new rule 165.9(d).[119] However, several comments supported new rule 165.9(d) and some comments proposed modifications to new rule 165.9(d) or suggested alternative approaches. In the analysis below, the Commission evaluates, within the scope of this rulemaking, the benefits and costs of each feasible alternative proposed by commenters and the alternatives identified in the NPRM.[120]

The Commission provides below a qualitative assessment of the benefits and costs of the final amendments and considered regulatory alternatives and, where feasible, quantified estimates of those economic effects. The Commission is unable to quantify certain economic effects because the Commission does not have, and in certain cases cannot reasonably obtain, data necessary to inform Commission estimates. Further, even in cases where the Commission has data, certain economic effects cannot practicably be

[110] 5 U.S.C. 553(b)(A) (excepting rules of agency organization from notice-and-comment rulemaking requirements).

[111] 5 U.S.C. 601–612.

[112] *Id.* 604.

[113] *Id.* 605(b).

[114] 7 U.S.C. 26(a)(7).

[115] 44 U.S.C. 3501–3521.

[116] 7 U.S.C. 19(a).

[117] In conducting its analysis, the Commission is informed by Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993), as supplemented by Executive Order 14215, Ensuring Accountability for All Agencies, 90 FR 10447 (Feb. 24, 2025).

[118] The amendments would also redesignate current § 165.9(d) as new § 165.9(e) and make technical corrections in part 165 to update regulatory references to reflect the WBO's 2025 move, consistent with its adjudicatory functions, from the DOE to the OGC. These amendments are ministerial and not expected to generate benefits or costs.

[119] *See* Nugent Comment at 3 (''Applying its own historical data, the Commission estimates that had the presumption been in effect for the Program's entire twelve-year history, total additional payouts from the Customer Protection Fund would have been under $4 million—roughly $333,000 per year on average, about one percent of total award dollars paid since 2014, and under two percent of the Fund's balance at the end of FY2025. That is a modest, well-bounded cost against the benefits of faster processing, reduced administrative burden, and stronger whistleblower incentives, and I urge the Commission to adopt the proposal on that basis.''). Another comment, without referencing the Commission's cost-benefit consideration directly, said that it ''should better explain why $5 million is the appropriate threshold'' instead of a higher one that ''could allow the Commission to reduce processing times even further.'' Better Markets Comment at 2. Additionally, several commenters raised economic arguments bearing on the benefits and costs of new rule 165.9(d). Those arguments, including points concerning the present value of delayed awards, the calibration of the $5 million threshold, potential adverse incentives for awards with higher dollar values, the liquidity implications for the CPF, and the appropriate evidentiary weight to assign to the SEC's experience, are addressed as relevant in the discussion.

[120] *See infra* SectionIV.C.5 (''Regulatory Alternatives''); *supra* Section II.B and II.C (''Comments Received'' and ''Discussion'').

quantified due to the number and type of assumptions necessary. In particular, the Commission recognizes that significant structural changes continue to occur in the financial markets within its jurisdiction, and that the number, nature, and complexity of future enforcement matters—and related whistleblower claims—cannot be predicted with precision. As a result, any estimate of the net effects of the amendments is subject to uncertainty and cannot be expressed with a narrow confidence interval. The Commission's inability to quantify particular benefits and costs does not imply that such economic effects are less significant than quantified effects.

2. Baseline

The baseline against which the benefits and costs of the new rule are measured consists of the existing legal framework for the Program and the Commission's implementation of that framework.

The current regulatory framework requires an individualized, factor-by-factor review to determine the appropriate percentage award of every meritorious claim, regardless of award size. Section 23 of the CEA directs the Commission to pay awards of 10 to 30 percent of collected monetary sanctions to eligible whistleblowers whose original information leads to a successful Covered Action or Related Action.[121] Under the existing rules in part 165, including rule 165.7 (procedures for award applications) and rule 165.9 (criteria for determining amount of award), every meritorious claim, regardless of award size, undergoes an individualized, factor-by-factor review. That multi-factor review considers positive factors, including the significance of the information, degree of assistance, programmatic interest, and participation in internal compliance systems, and factors that may decrease an award, including culpability or involvement, unreasonable delay, and interference with internal compliance systems, to determine the appropriate award percentage.[122]

The absence of any streamlined mechanism for small claims in part 165 contrasts with the SEC whistleblower program, which, in 2020, adopted a presumption to award qualifying claimants the statutory 30 percent maximum in matters involving total awards of $5 million or less.[123]

Because the staff review process under part 165 is labor-intensive and time-consuming for all submissions, the average interval from claim-submission deadline to final award order has been over 2.5 years.[124] The longer the interval between the claim deadline and claim-award resolution, the greater the reduction of an expected award's present value, which may diminish the economic incentives for individuals to report potential violations. Challenges to Preliminary Determinations, especially when the recommended award is less than the statutory maximum, can impose additional wait-times for award applicants.[125] Staff time devoted to reviewing challenges in smaller-dollar cases divert efforts that otherwise would be expended towards processing other claims, potentially ones with greater impact or significance. As a result, resources spent on smaller matters may delay the resolution of other cases, ultimately extending overall award processing times and reducing the Program's effectiveness.

Based on awards the Commission issued through calendar year 2025, whistleblower submissions have contributed to legal judgments for more than $3.3 billion in financial remedies and the return of approximately $160 million to harmed customers. From 2014—the year of the Commission's first whistleblower award—through calendar year 2025, the Commission granted 73 awards across 56 orders, amounting to more than $395 million. In FY 2024, whistleblowers were involved in approximately 42 percent of the Commission's enforcement actions.[126]

Tables 1–3, below, show Program performance metrics under the existing framework. They are labeled as follows to provide common references for the metrics presented: ''awards'' refers to award payments issued to individual awardees; ''orders granting awards'' refers to Commission actions issuing formal decisions that confer awards in specific enforcement matters where a single order may cover multiple awardees; ''percent of total award dollars'' refers to percentage calculated against aggregate dollars paid in whistleblower awards during the stated period. Table 1 presents the distribution of the number of whistleblower tips (received via Form TCR[127]), award applications (received via Form WB–APP[128]), awards, and orders granting awards from FY 2012 through the first quarter of FY 2026 (which ended on December 31, 2025).[129] Table 2 presents the distribution of whistleblower awards received by each awardee across award size buckets during the same time period. Table 3 presents the distribution of orders granting whistleblower awards (a given order might have multiple awardees) across award size buckets during the same period.

TABLE 1—DISTRIBUTION OF THE NUMBER OF WHISTLEBLOWER TIPS, AWARD APPLICATIONS, AWARDS, AND ORDERS GRANTING AWARDS FY 2012–Q1 (STARTING OCTOBER 1, 2012) THROUGH FY 2026–Q1 (ENDING DECEMBER 31, 2025)

FY	Forms TCR	Forms WB–APP	Awards	Orders granting awards
2012	58	16	0	0
2013	138	12	0	0
2014	227	38	1	1

[121] *See* 7 U.S.C. 26(b).

[122] *See* 17 CFR 165.9(b), (c); *see generally* Whistleblower Incentives and Protection, 76 FR 53172 (Aug. 25, 2011); Whistleblower Award Process, 82 FR 24487 (May 30, 2017).

[123] *See* Whistleblower Program Rules, 85 FR 70898, 70911–70912 (Nov. 5, 2020) (promulgating, among other rules, SEC rule 21F–6(c), codified at 17 CFR 240.21F–6).

[124] There is significant variance in individual case processing times where some matters resolve within a year of the application deadline, while, as one commenter notes, others can extend four or more years beyond the deadline. *See* Constantine Cannon Comment at 1. Multi-claimant matters and those in which Preliminary Determinations are contested are likely to exceed this average.

[125] *See* 17 CFR 165.7(g)(2) (process for claimants to contest preliminary award); *id.* 165.13(a) (claimants' right to appeal final Commission order). Unlike the amount of an SEC whistleblower award, the amount of a CFTC whistleblower award is subject to judicial challenge. *Compare* 15 U.S.C. 78u–6(f) *with* 7 U.S.C. 26(f)(2).

[126] *See* Commodity Futures Trading Commission Whistleblower Program and Customer Education Initiatives 2024 Annual Report, 8 (Oct. 2024), available at *https://www.whistleblower.gov/sites/whistleblower/files/2024-11/FY24%20Customer%20Protection%20Fund%20Annual%20Report%20to%20Congress.pdf.*

[127] *See* 17 CFR 165.3(a) (prescribing that whistleblowers submit original information via a Form TCR to be eligible for award); *id.* part 165 App. B (Form TCR and Form WP–APP).

[128] *See id.* 165.7(b) (prescribing that whistleblowers submit a Form WB–APP to file a claim to receive a whistleblower award); *id.* part 165 App. B (Form TCR and Form WP–APP).

[129] Fiscal years begin on October 1 of the prior calendar year and end on September 30 of the calendar year. For example, FY 2026 began on October 1, 2025, and will end on September 30, 2026.

TABLE 1—DISTRIBUTION OF THE NUMBER OF WHISTLEBLOWER TIPS, AWARD APPLICATIONS, AWARDS, AND ORDERS GRANTING AWARDS FY 2012–Q1 (STARTING OCTOBER 1, 2012) THROUGH FY 2026–Q1 (ENDING DECEMBER 31, 2025)—Continued

FY	Forms TCR	Forms WB–APP	Awards	Orders granting awards
2015	232	47	1	1
2016	273	59	2	2
2017	465	74	0	0
2018	760	120	5	5
2019	455	117	5	5
2020	1,030	140	16	11
2021	961	140	6	6
2022	1,506	152	10	5
2023	1,530	301	7	5
2024	1,744	317	15	12
2025	1,697	203	3	2
2026 Q1	360	18	2	1

TABLE 2—DISTRIBUTION OF WHISTLEBLOWER AWARDS RECEIVED BY EACH AWARDEE ACROSS AWARD SIZE BUCKETS

[Through December 31, 2025]

Range	Number of awards	Percent of total award count	Percent of total award dollars *
$2 million or less	52	71	4
Over $2 million to $5 million	8	11	6
Over $5 million to $10 million	6	8	12
Over $10 million to $15 million	3	4	10
Over $15 million to $25 million	2	3	11
Over $25 million	2	3	56
Total	73	100	100

* Figures do not sum to 100% due to rounding.

TABLE 3—DISTRIBUTION OF ORDERS GRANTING WHISTLEBLOWER AWARDS ACROSS AWARD SIZE BUCKETS

[Through December 31, 2025]

Range	Number of orders	Percent of total order count *	Percent of total award dollars *
$2 million or less	34	61	3
Over $2 million to $5 million	9	16	7
Over $5 million to $10 million	6	11	12
Over $10 million to $15 million	3	5	10
Over $15 million to $25 million	2	4	11
Over $25 million	2	4	56
Total	56	100	100

* Figures do not sum to 100% due to rounding.

Awards are concentrated at the lower end of the distribution where approximately 71 percent of awards were at or under $2 million (representing about four percent of total award dollars paid to whistleblowers). When measured by the Commission's orders granting awards, about 61 percent of these orders were for $2 million or less, making up roughly three percent of total payouts. Approximately 82 percent of awards were at or under $5 million and collectively represented about 10 percent of total award dollars paid to whistleblowers. Similarly, 77 percent of orders granting awards were for $5 million or less, accounting for about 10 percent of total payouts.[130]

Of the 43 matters with $5 million or less in awards from the start of the Program through December 31, 2025, 12 matters had award percentages of less than 30 percent. If those 12 matters instead had awards of 30 percent of the recovered amounts, the total CPF payouts would have increased by less than $4 million over the entire period. To put that amount in context, the CPF had an available balance of over $200 million as of September 30, 2025.[131]

3. Benefits

Relative to the baseline and after consideration of comments, the Commission believes that amended rule 165.9 will improve the efficiency of whistleblower-award processing, by conserving Commission staff resources in processing applicants' submissions and reducing the potential for administrative and judicial contests. The amended rule will also support the effectiveness of the Program and the

[130] The Commission has continued to resolve Covered Actions for which the imposed monetary sanctions are small enough that a 30 percent award would not exceed $5 million.

[131] *See* CFTC Whistleblower Program, 2025 Annual Report, at 3, 21–2.

Commission's enforcement mission by enhancing the predictability and procedural clarity of the award process for prospective whistleblowers and strengthening incentives for timely and high-quality reporting.[132]

Amended rule 165.9 is expected to improve the efficiency of the Program. The 30 Percent Presumption will reduce the average time and resources required for the WBO and the Commission to review smaller-dollar matters by reducing the circumstances where staff must engage in the full factor-by-factor analysis specified in rule 165.9(b) and (c). Specifically, when the 30 Percent Presumption applies, the award amount will be conditionally set at the 30 percent statutory maximum unless certain factors that may decrease an award are present.[133] In such cases, Commission staff will not be required to conduct a granular analysis for the following positive factors: (1) the significance of the whistleblower's information; (2) the degree of assistance provided by the whistleblower (beyond confirming that assistance was not limited); (3) the Commission's interest in deterring violations; and (4) participation in internal compliance systems.[134] Assessing all these positive factors can be labor intensive. For example, evaluating the degree of assistance may entail reviewing hundreds of pages of investigative records and correspondence, while determining significance or deterrence involves cross-referencing enforcement outcomes and market impacts. Based on historical data, the Commission anticipates that streamlining the award determination process for matters under the $5 million threshold would eliminate the need for individualized analysis on these points for approximately 82 percent of awards, thereby substantially reducing administrative burden.[135] Accordingly, the Commission believes that removing these requirements is likely to result in a substantial decrease in award-processing time. In addition to a reduction in award-processing time, the average claim-award-resolution time will potentially be further reduced insofar as there are fewer disputes seeking higher award percentages, when the maximum is awarded by operation of the 30 Percent Presumption.[136]

Notwithstanding the uncertainty associated with evolving markets, the Commission's experience supports the expectation that the volume and complexity of potential enforcement matters will increase over time, making streamlined review of smaller-dollar claims progressively more important for maintaining Program effectiveness. Specifically, as new products, trading technologies, and market structures emerge, the Commission expects, based on its experience, that the number and complexity of potential enforcement matters will grow as well, expanding the potential need for whistleblower assistance in the process.[137] Accordingly, the Commission believes it is reasonable to expect that streamlined review of smaller-dollar claims will become increasingly important for maintaining Program effectiveness.[138]

The SEC's experience with its analogous provision, SEC rule 21F–6(c), provides empirical evidence of the efficiency gains the Commission expects from new rule 165.9(d).[139] According to the SEC's 2021 annual report to Congress, after implementation of the SEC whistleblower program rules, the SEC rule 21F–6(c) presumption was applied in approximately 89 percent of cases with award amounts not exceeding $5 million, compared to 46 percent of cases in which the statutory 30 percent maximum was awarded before the amendments. The report further notes that this presumption increased consistency and transparency and expedited the processing of award claims in FY 2021.[140]

In addition, new rule 165.9(d) is expected to support the effectiveness of the Program and the Commission's enforcement mission. The Commission expects that new rule 165.9(d) will encourage whistleblower reporting by improving the predictability and procedural transparency of the award process. The amendments will increase reporting incentives in at least three ways. First, some meritorious whistleblowers will receive higher awards than they would under the status quo, which the Commission expects will incentivize prompt reporting. The Commission's analysis of historical award data suggests that, of the 43 matters with $5 million or less in awards, approximately 30 percent (12 matters) would have received a larger award had new rule 165.9(d) been in effect.

Second, even for those whistleblowers that would have received 30 percent under the current rule 165.9, prompt processing of smaller-dollar awards may encourage timely reporting. Economic theory and common experience suggest that shorter, more predictable timelines reinforce the incentive to report promptly by increasing the perceived value of prospective awards.[141] By shortening average processing time, new rule 165.9(d) should mitigate timing-related disincentives and help preserve the Program's ability to attract high-quality information.[142]

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[132] The Commission is unaware of metrics to monetize these benefits and so generally discusses them qualitatively when it cannot do so quantitatively.

[133] Because the 30 Percent Presumption does not apply where factors that may decrease an award are present (including culpability, unreasonable delay, or interference with internal compliance systems), the amended rule 165.9 will avoid unintended costs associated with over-inclusive awards that might otherwise offset the efficiency gains of the amendments. *Accord* Nugent Comment at 3 (''The retained safeguards are the right way to balance speed against integrity.'').

[134] Commission staff will continue to evaluate the factors in rule 165.9(c) to determine whether the presumption applies under new rule 165.9(d).

[135] *See supra* section IV.C.2.

[136] A single-claimant award at the 30-percent level eliminates any incentive for that claimant to contest the award percentage in the Preliminary Determination or appeal the Final Determination.

[137] For example, the Commission has observed significant recent growth in event contracts—*i.e.,* derivatives contracts, typically with a binary payoff structure, based on the outcome of an underlying occurrence or event—and the prediction markets that trade them. *See* Prediction Markets, 91 FR 12516, 12517 nn.9–10 and accompanying text (Mar. 16, 2026) (advanced notice of proposed rulemaking). Insider trading in these expanding prediction markets is a particular focus for the Commission's enforcement effort. *See* David I. Miller, CFTC Director of Enforcement, Public Remarks and New York University Law School—CFTC Enforcement Priorities, Insider Trading in the Prediction Markets and Cooperation with the CFTC (Mar. 31, 2026), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/opamiller1.*

[138] The Commission's analysis is grounded in historical Program data, which, combined with the markets' highly dynamic natures, renders it unable to more precisely quantify the likely magnitude of expected efficiency gains ex ante.

[139] One commenter asserted that the SEC has continued to experience some delays. *See* Constantine Cannon Comment at 2. However, the presence of some residual delays in SEC review of larger matters does not undercut the rule's expected efficiency benefit for smaller matters; rather, they reinforce the rationale for the rule's goal of promoting efficient resource allocation to free up resources for reviewing higher dollar claims.

[140] Securities and Exchange Commission, 2021 Annual Report to Congress Whistleblower Program at 18 (2021), available at *https://www.sec.gov/reports?aId=edit-tid&year=All&field_article_sub_type_secart_value=Reports+and+Publications-AnnualReports&tid=59.*

[141] According to the time value of money, the longer the time required to make an award, the lower the present value of the award becomes to the claimant at the time of applying. As a result, if the delay between application and award becomes too long, a potential whistleblower, based on his or her circumstances, may decide that the cost of becoming a whistleblower would outweigh the present value of the whistleblower award. *Accord* Nugent Comment at 3 (''Delay is not a neutral inefficiency; it directly reduces the present value of an eventual award and, as the Commission recognizes, can deter exactly the kind of prompt, high-quality reporting the Program exists to encourage.''); H Street Law Comment at 2 (''Unfortunately, many whistleblowers have noted [the delay whistleblowers may experience] as a significant disincentive to reporting unlawful conduct.'')

[142] The magnitude of this incentive distortion could be material to whistleblowers. For illustrative

Third, harmonizing rule 165.9 with SEC rule 21F–6(c) for smaller-dollar claims should help ensure that the CFTC's Program is viewed as offering fair and comparable incentives, thereby encouraging participation and improving the overall functioning of the federal whistleblower framework. Ultimately, by strengthening incentives for individuals to provide timely, high-quality information, new rule 165.9(d) may also conserve enforcement resources by reducing the Commission resources necessary to identify possible misconduct.

Also, new rule 165.9(d) includes appropriate conditions to ensure that the 30 Percent Presumption does not result in outcomes contrary to the public interest.[143] Where factors that may decrease an award are present (including culpability, unreasonable delay, or interference with internal compliance systems), the presumption does not apply. And the Commission retains authority to modify award amounts where applying the maximum percentage would be inappropriate considering public interest concerns. These safeguards are intended to avoid unintended costs associated with over-inclusive awards (*i.e.,* awards at the statutory-maximum percentage notwithstanding that the claimant's assistance was limited or duplicative; the presence of one or more factors that may decrease an award (culpability, unreasonable delay, or interference with internal compliance systems); inconsistency with Program objectives or the public interest; or unduly awarding one claimant relative to another in a multi-claimant award allocation).

4. Costs

Based on historical experience and subject to acknowledged uncertainty about future market conditions and enforcement activity, the Commission believes that new rule 165.9(d) will result in a limited and manageable increase in award payments from the CPF and will not impose additional burdens on whistleblowers seeking to provide tips or apply for awards or on the Commission in administering the Program. The Commission also believes that the 30 Percent Presumption is unlikely to meaningfully increase the incentives to submit meritless whistleblower claims.

With respect to the CPF, the Commission recognizes that new rule 165.9(d) will increase payments for the subset of awards at or under the $5 million threshold compared to awards calculated under existing part 165. Using Program data from 2014 through the end of calendar year 2025, the Commission identified 43 matters with $5 million or less in awards, representing approximately 10 percent of the total award dollars paid over that period. If the 30 Percent Presumption had applied to these 43 matters, the Commission's analysis indicates that total CPF payouts would have increased by less than $4 million during the entire period the Program has been operated[144] (*i.e.,* equivalent to an average of roughly $333,000 per year over 2014–2025). Four million dollars is approximately one percent of the more than $395 million in whistleblower awards issued since 2014 through calendar year 2025 and less than two percent of the FY 2025 CPF balance.[145] Because awards are paid as a fixed percentage (10 to 30 percent) of collected monetary sanctions and the CPF is statutorily replenished from collections when balances are insufficient to pay awards, the Commission does not view the potential increase in CPF withdrawals as threatening to the CPF's continued efficacy or its ability to support the Program's statutory functions.[146]

The Commission does not anticipate that new rule 165.9(d) will impose material claim application or processing costs on whistleblowers or the Commission. The new rule neither changes the information that whistleblowers must provide to submit a tip or apply for an award, nor does it alter the substantive eligibility requirements under part 165. Accordingly, the Commission expects no incremental burden on award claimants. Likewise, the amended rule introduces no new administrative compliance obligations for the WBO or the Commission, and therefore, should not increase administrative burden or operating costs.

A commenter expressed concern that the 30 Percent Presumption would generate adverse incentives by inducing individuals to submit meritless or manufactured claims in an effort to obtain a guaranteed maximum award.[147] Although any change to part 165 that increases the expected award for the average claim could increase the corresponding incentives to submit a whistleblower claim, the Commission believes that the 30 Percent Presumption is unlikely to meaningfully increase the number of meritless claims. First, the 30 Percent Presumption affects only the award percentage for meritorious claims—*i.e.,* those that have already been determined to provide original information that led to a successful Covered Action. The 30 Percent Presumption does not alter part 165's eligibility requirements, the original information standard, or the criteria for successful Covered Actions. Second, the economic literature on whistleblower and informant incentive programs indicates that the risk of adverse incentives from monetary awards is most pronounced at larger award levels, where the incentive to inflate claims is highest relative to the risk of detection.[148] Awards of $5 million or less are relatively modest in the context of financial markets enforcement and are unlikely to produce the type of incentive-driven claim inflation that characterizes high-value award environments. Third, meritless claims (*i.e.,* those lacking original information tied to a specific, demonstrable violation) are typically identifiable by Commission staff at an early screening stage with minimal analytical effort, limiting the marginal screening cost they impose. Accordingly, the Commission does not view the potential for adverse incentives as a meaningful cost of new rule

purposes, assuming a discount rate of three percent, a conservative approximation of an individual's opportunity cost of waiting, a $1 million award delayed by 2.5 years has a present value of approximately $929,000, a reduction of roughly seven percent. At a four-year delay, the same award is worth approximately $888,000, a reduction of roughly 11 percent.

[143] *Accord* Nugent Comment at 3 (''The retained safeguards are the right way to balance speed against integrity.'')

[144] *See supra* note 131 and accompanying text.

[145] *See* CFTC Whistleblower Program, 2025 Annual Report, at 3, 21–21 (includes CPF balance sheet showing available balance of $212,679,118 as of Sept. 30, 2025); *see also* Nugent Comment at 3 (characterizing the amount as ''a modest, well-bounded cost against the benefits of faster processing, reduced administrative burden and stronger whistleblower incentives'').

[146] The Commission acknowledges that these estimates rely on the Program's historical experience and that future effects are subject to uncertainty. The derivatives markets overseen by the Commission are experiencing significant structural evolution—including new products, new intermediaries, changing market dynamics, and new trading technologies; all this adds uncertainty regarding the number, nature, and size of future enforcement actions and related whistleblower claims. And, as noted previously, the Commission lacks discretion to consider the CPF balance in its determination of award amount. 7 U.S.C. 26(c)(1)(B)(ii); 17 CFR 165.9(d); *see also* 7 U.S.C. 26(b)(1) (the Commission ''shall pay'' awards to qualifying whistleblowers).

[147] *See* Stulz Comment.

[148] *Cf.* Paolo Buccirossi, Giovanni Immordino, and Giancarlo Spagnolo, *Whistleblower Rewards, False Reports, and Corporate Fraud,* 51 Eur. J.L. & Econ. 443 (2021) (arguing that while very large awards—defined mathematically based on the whistleblower's net economic trade-offs, rather than a specific monetary value—lead to fraudulent reporting, when the risk of retaliation is severe, these large rewards are needed and so are tougher sanctions against fraudulent reports).

165.9(d) that would offset its expected efficiency and incentive benefits.

5. Regulatory Alternatives

In developing new rule 165.9(d), the Commission considered several alternatives.

a. Increasing WBO Staffing

The Commission considered increasing WBO staffing to accelerate processing as an alternative. While additional WBO staff is likely to improve processing capacity, this alternative standing alone would not address the procedural inefficiencies of the current framework. Moreover, staffing increases would require recurring and certain costs. For example, the Commission estimates the annual salary burden for hiring one data analyst at the CT–13 grade and two attorney-advisors at the CT–14 grade would be $512,497 per year, excluding benefits.[149] By contrast, the 30 Percent Presumption's incremental impact on awards is bounded and contingent. With respect to funding sources, awards are paid from the CPF, which also funds the WBO and the Office of Customer Education and Outreach. In cases where additional staffing is not eligible to be funded from the CPF, it would require appropriated dollars, making the Presumption's CPF-based impact comparatively preferable.

b. Using a Lower or Higher Threshold

The Commission also considered a lower presumption threshold of $2 million.[150] A $2 million threshold would forfeit the benefits associated with harmonization with SEC rule 21F–6(c), which the Commission views as important for reducing inter-agency disparities that can influence whistleblower behavior in cross-jurisdictional contexts. It would also apply the presumption to fewer matters,[151] thereby diminishing potential gains in timeliness, participation, and administrative efficiency.[152]

The Commission also evaluated whether the 30 Percent Presumption should apply to matters with awards up to $15 million, consistent with a proposed whistleblower rulemaking by the Financial Crimes Enforcement Network (''FinCEN''), a bureau of the U.S. Department of the Treasury.[153] The economic objective in setting the threshold for the presumption's application is to maximize administrative efficiency (by covering as many claims as possible under the presumption) while avoiding two countervailing costs—increased pressure on the CPF and the loss of the individualized factor analysis that is crucial for the most valuable, higher-dollar matters. Historically, 77 percent of orders granting awards were for $5 million or less, accounting for about 10 percent of total payouts. Moving from a $5 million threshold to a $15 million threshold would increase coverage by 12 percentage points (from approximately 82 percent to approximately 94 percent of awards by count), while increasing the associated share of total award dollars subject to the presumption by 22 percentage points (from approximately 10 percent to 32 percent). That is, adopting a threshold above $5 million increases the likelihood that the benefits from increased claim processing efficiency will be offset by an increase in the average payment amount from the CPF. Additionally, a higher threshold may be more likely to include matters where the stakes are sufficiently substantial that the individualized factor analysis has the most value in ensuring the award outcomes are equitable and proportionate to each claimant's contribution. Replacing that analysis with a blanket presumption in those matters would increase the risk of over- or under-awarding claimants in higher value cases—a cost that could undermine Program integrity and have a greater impact on the CPF.

c. Adopting a Minimum Amount for Awards Over the Threshold

The Commission also assessed a commenter's concern that the $5 million threshold could ''create weaker incentives for whistleblowers to bring cases resulting in large recoveries than for whistleblowers whose information results in smaller recoveries'' because awards above a certain threshold would not be subject to the 30 Percent Presumption.[154] The commenter recommended that the Commission modify the proposal to establish a $5 million award-floor applicable in the event that a meritorious claimant contributed to an award that was too large to trigger the 30 Percent Presumption, but would receive an award of less than $5 million based on the Commission's individualized claim review.[155]

The principal cost of line-drawing in threshold-based rules is the differential outcomes at the margin and, under the new rule 165.9(d), the Commission acknowledges that it is possible that a successful claimant might receive an aggregate award of less than $5 million in a matter where collections exceed the 30 Percent Presumption threshold. However, in evaluating incentives, whistleblowers cannot know with certainty whether their information will contribute to a CFTC enforcement action, much less what amount of collections will result from a whistleblower tip at the time they submit information. And, because the Presumption will operate to provide the statutory maximum in a greater share of claims, the Commission anticipates that the Presumption likely will incentivize rather than disincentivize whistleblower assistance.

Moreover, there is insufficient evidence to suggest the circumstance identified by the commenter is likely to result in materially inequitable outcomes. All awards above the threshold would be subject to an appropriate, individualized assessment. Based on the Commission's experience to date, in every matter where collections exceeded $16.66 million but the aggregate award fell below $5 million, the awardee(s) would not have satisfied the conditions in new rule 165.9(d)(1)(ii)–(iv) necessary to qualify for a 30 percent award.[156] Accordingly, the Commission does not expect that the individualized factor analysis of new rule 165.9(d)(1)(ii)–(iv) will produce materially less favorable outcomes to claimants in the potentially impacted zone. Incorporating a separate threshold or other adjustment mechanism would add administrative cost and increase complexity because staff would need to perform both the § 165.9(d)(1)(ii)–(iv) exceptions analysis and an additional, threshold specific determination (including documenting outcomes, updating guidance and workflows, and

[149] This figure was calculated using the Commission's 2026 pay table and the lowest wage specified in the CT–13 and CT–14 wage bands for employees in Washington, DC, respectively.

[150] This is an approach initially proposed but ultimately not adopted by the SEC. *See* Whistleblower Program Rules, 85 FR at 70910–70911.

[151] That is, approximately 71% of awards by count at $2 million or less versus 82% at $5 million or less. *See* Table 2, *supra.*

[152] *Id.* (showing only a four percent difference in total award dollars at the $2 million-capped level versus the $5 million-capped level).

[153] *See* Whistleblower Incentives and Protections, 91 FR 16328, 16339 (Apr. 1, 2026) (Financial Crimes Enforcement Network, Department of Treasury; proposed 31 CFR 1010.930(e)(3)(iv)—Certain Awards of $15 Million or Less).

[154] *See* Hasegawa Comment (raising concern that whistleblowers in matters where collections are above $16.66million and below $50 million might, under a limited, theorized set of circumstances, be awarded less than $5 million, and urging the Commission to modify new rule 165.9(d) to incorporate a $5 million award-floor applicable if the theorized circumstances actually arose).

[155] *Id.*

[156] *See supra* Section II.C.

tracking thresholds across multi-claimant matters), thereby increasing procedural steps and potential disputes. It would also reduce harmonization with SEC rule 21F–6(c), and the Commission's experience indicates the incremental benefit would be limited given the rarity of the identified circumstance.

d. Automatic Inflation Adjustments

The Commission considered whether to include a predetermined adjustment mechanism in amended rule 165.9, such as indexing to inflation. As one commenter stated, the $5 million nominal threshold will erode in real value over time, causing an increasing share of cases to fall above the threshold and progressively reducing the rule's coverage.[157] The Commission acknowledges potential inflation impacts but assesses this risk to be limited because the historical distribution of awards has been heavily concentrated at the lower end of the dollar range. In 2025, 71 percent of all awards were at or below $2 million. The award distribution would have to shift substantially toward the $5 million threshold before there would be a material decline in awards subject to the 30 Percent Presumption. However, because the Commission is sensitive to the continuing efficacy of the Presumption, the Commission will monitor the annual distribution of awards relative to the $5 million threshold. The Commission retains discretion to consider adjustments to the threshold if the data indicate an erosion of the rule's effectiveness.

e. Adopting Additional Process Requirements for the Commission

As suggested by a commenter, the Commission considered whether to adopt specific time requirements for Preliminary and Final Award Determinations.[158] Mandatory processing deadlines would reduce staff flexibility to allocate resources according to case complexity, undermining Commission staff's ability to engage in the thorough, individualized evaluations required for more complex, higher-value matters. Furthermore, the Commission anticipates that the administrative costs of tracking and ensuring compliance with fixed deadlines, and the potential litigation exposure if deadlines were missed, could exceed the efficiency gains that the 30 Percent Presumption is designed to achieve.

Another commenter suggested a requirement that Preliminary Determinations include a provision-specific written explanation when the 30 Percent Presumption is overridden.[159] Even without a specific requirement in new rule 165.9(d), Commission staff must document and analyze relevant analytical criteria in Preliminary Determinations for which the 30 Percent Presumption is not applied due to the presence of factors that may decrease an award; this is done as a matter of sound administrative practice and pursuant to the review requirements under rules 165.7 and 165.13. Including additional documentation requirements under rule 165.9 would impose additional procedural costs, without meaningfully improving the substantive quality and transparency of the determinations.

f. Making the Factors More Prescriptive

The Commission also considered whether to make the factors considered when determining whether the 30 Percent Presumption applies more prescriptive. For example, a commenter suggested a statement that limited assistance may not be inferred solely from the absence of requests for supplemental cooperation. Because the existing framework for evaluating the degree of assistance provided by the claimant requires an individualized assessment based on the claimant's contribution to the Commission's investigation, the suggested amendment would increase complexity without altering the substantive standard and would risk generating interpretive disputes about other factors not addressed by the clarification, resulting in additional costs.

6. Section 15(a) Factors

Section 15(a)(2) of the CEA requires the Commission to consider the costs and benefits of its actions in light of five factors: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of the futures markets; (3) price discovery; (4) sound risk management practices; and (5) any other public-interest considerations.[160] The following discussion synthesizes the Commission's consideration of these factors with respect to new rule 165.9(d), based on the Program's historical data and subject to recognized uncertainty regarding the number, nature, and complexity of future whistleblower matters.

The Commission believes that new rule 165.9(d) is likely to enhance the protection of market participants and the public by improving incentives for the timely, high-quality reporting of potential violations through more predictable award-percentage outcomes and streamlined processing for matters where the statutory-maximum payout would be $5 million or less. In addition, the Commission anticipates that the amendments will promote more timely and accurate reporting, which strengthens the Commission's ability to detect, deter, and remediate violations that could harm market participants, distort market integrity, or undermine confidence in derivatives markets.

The Commission expects new rule 165.9(d) to promote efficiency by streamlining award-percentage determinations for matters in which the statutory-maximum payout would be $5 million or less, a cohort that accounts for approximately 82 percent of awards by count in historical Program data. Improved Program efficiency is likely to bolster enforcement program effectiveness, which in turn supports market competitiveness and enhances overall market integrity by increasing the likelihood that harmful conduct will be detected and addressed. Because new rule 165.9(d) does not introduce new reporting, recordkeeping, or compliance obligations, it is not expected to impose new burdens on registrants or other market participants.

Although new rule 165.9(d) would not directly impact price-formation mechanisms, the Commission anticipates potential indirect contributions to more accurate price discovery. By enhancing the Program's efficiency, transparency and predictability—thereby shortening award timelines and reinforcing whistleblower incentives to report—new rule 165.9(d) would operate in service of the Commission's enforcement mission to deter and prosecute misconduct. Misconduct that impairs market transparency, distorts prices, or affects liquidity is more likely to be identified and addressed when whistleblowers have reliable incentives and predictable award outcomes. By enhancing the Commission's ability to detect misconduct early and deploy enforcement resources more efficiently, the new rule supports the statutory objective of fostering fair, orderly, and transparent markets.

Market participants rely on the integrity of derivatives markets to hedge and manage risk effectively. The Commission believes that insofar as new rule 165.9(d), for reasons already identified, strengthens deterrence of

[157] H Street Law Comment at 1.

[158] *See* Constantine Cannon Comment at 2.

[159] *See* Anonymous Comment at 1, 4–5.

[160] 7 U.S.C. 19(a)(2).

misconduct and accelerates the Commission's response to potential violations, it will support sound risk-management practices indirectly by accelerating the identification and remediation of misconduct that can create operational, counterparty, or market-wide risks. By reinforcing the incentive for whistleblowers to promptly report information that may reveal systemic risks, operational failures, or abusive conduct, new rule 165.9(d) enhances the Commission's ability to address emerging threats to market integrity.

The Commission believes that new rule 165.9(d) is likely to advance additional public-interest considerations. First, the new rule is expected to conserve public resources by improving administrative efficiency with limited additional CPF drawdown. Second, the Commission believes that aligning the $5 million threshold with SEC rule 21F–6(c) fosters consistency across the two whistleblower programs, which serves the public interest in effective legal enforcement across financial markets, supporting market integrity, market participant protection, and public trust in regulatory systems.

A. Antitrust Considerations

CEA section 15(b) [161] requires the Commission to consider the public interests protected by the antitrust laws and to take actions involving the least anti-competitive means of achieving the objectives of the CEA. The Commission received no comments specifically addressing this issue. The Commission foresees no negative impact accruing to the public interests protected by the antitrust laws from new rule 165.9(d). Accordingly, in its view, new rule 165.9(d) is consistent with the least anti-competitive means of achieving the objectives of the CEA.

B. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

OMB has determined that this action is not a significant regulatory action as defined in Executive Order 12866, as amended, and therefore it was not subject to Executive Order 12866 review.

This action is not an Executive Order 14192 regulatory action because it is not a significant regulatory action under E.O. 12866.

F. Congressional Review Act

Pursuant to the Congressional Review Act,[162] the Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

[161] 7 U.S.C. 19(b).

[162] 5 U.S.C. 801 *et seq.*

List of Subjects in 17 CFR Part 165

Administrative practice and procedure, Government employees, Investigations, Whistleblowing.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 165 as follows:

PART 165—WHISTLEBLOWER RULES

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 9, 12a(5), 13a, 13a–1, 13b, and 26.

§ 165.7 [Amended]

■ 2. In § 165.7(e)(1), remove the words ''by the Director of the Division of Enforcement''.

■ 3. In § 165.9:

■ a. Redesignate paragraph (d) as paragraph (e); and

■ b. Add new paragraph (d).

The addition reads as follows:

§ 165.9 Criteria for determining amount of award.

* * * * *

(d) *Additional considerations in connection with certain awards of $5 million or less.* (1) This paragraph (d) applies when the Commission is considering any meritorious award application where:

(i) The statutory maximum award of 30 percent of the monetary sanctions collected in any covered and related action(s), in the aggregate, is $5 million or less, and the Commission determines that it does not reasonably anticipate that future collections would cause the statutory maximum award to be paid to any whistleblower to exceed $5 million in the aggregate;

(ii) None of the negative award factors specified in paragraph (c)(1) or (c)(3) of this section were found present with respect to the claimant's award application and the award claim does not trigger § 165.17 (concerning awards to whistleblowers who engage in culpable conduct);

(iii) The claimant did not engage in unreasonable reporting delay under paragraph (c)(2) of this section (although the Commission, in its discretion, may in certain limited circumstances determine to waive this criterion if the claimant can demonstrate that doing so based on the facts and circumstances of the matter is consistent with the public interest and the objectives of the whistleblower program); and

(iv) The Commission does not otherwise determine in its discretion that application of the enhancement afforded by this paragraph (d) would be inappropriate because either:

(A) The whistleblower's assistance in the covered action or related action (as assessed under paragraph (b)(2) of this section) was, under the relevant facts and circumstances, limited; or

(B) Providing the enhancement would be inconsistent with the public interest, or the objectives of the whistleblower program.

(2) If the Commission determines that the criteria in paragraph (d)(1) of this section are satisfied, the resulting payout to a claimant for the original information that the claimant provided that led to one or more successful covered or related action(s), collectively, will be the maximum allowed under the statute.

(3) Notwithstanding paragraph (d)(2) of this section, if two or more claimants qualify for an award in connection with any covered action or related action and at least one of those claimants' award applications qualifies under paragraph (d)(1) of this section, the aggregate amount awarded to all meritorious claimants will be the statutory maximum. In allocating that amount among the meritorious claimants, the Commission will consider whether an individual claimant's award application satisfies paragraphs (d)(1)(ii) and (iii).

§ 165.10 [Amended]

■ 4. In § 165.10(a)(7), remove the words ''Division of Enforcement''.

■ 5. Revise § 165.15 to read as follows:

§ 165.15 Administering the whistleblower program.

(a) *Specific authorities*—(1) *Payments, deposits, and credits.* The Executive Director is authorized to deposit into or credit collected monetary sanctions to the Fund, and to make payment of awards therefrom, with the concurrence of the General Counsel, or of their respective designees.

(2) *Designation of claims review staff.* The Claims Review Staff referenced in § 165.7 shall be composed of no fewer than three and no more than five staff members from at least two of the Commission's Offices or Divisions (except the Office of the General Counsel) who have not had direct involvement in the underlying enforcement action, as designated by the General Counsel in consultation with the Executive Director.

(3) *Disclosure of whistleblower identifying information.* The General Counsel is authorized on behalf of the Commission to exercise its discretion to disclose whistleblower identifying information under § 165.4(a).

(b) *General authority to administer the program.* The General Counsel shall have general authority to administer the whistleblower program except as otherwise provided under this part.

Issued in Washington, DC, on September 14, 2026, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Whistleblower Award Determination—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–19006 Filed 9–15–26; 8:45 am]

BILLING CODE 6351–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2019–0013]

RIN 0960–AI43

Revised Medical Criteria for Evaluating Cardiovascular Disorders

Correction

In rule document 2026–13420 beginning on page 40804 in the issue of Thursday, July 2, 2026, make the following correction:

Appendix 1 to Subpart P of Part 404 [Corrected]

On page 40837, in Appendix 1 to subpart P of part 404, in the second column, in the third row, ''*How do we evaluate ECG evidence?*'' should read ''2. *How do we evaluate ECG evidence?*''

[FR Doc. C1–2026–13420 Filed 9–15–26; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 603

[Docket ETA–2025–0004]

RIN 1205–AC11

Federal-State Unemployment Compensation (UC) Program; Data Availability

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor (DOL or the Department) is issuing this final rule to require the disclosure of confidential unemployment compensation (UC) information to Federal officials for purposes of UC program oversight and audits. This rule will ensure that Federal officials, including the Department's Office of Inspector General (DOL–OIG), are able to obtain the information needed from State UC agencies to ensure proper oversight of the UC programs and to hold State UC agencies accountable for identifying and addressing fraud in UC programs.

DATES:

Effective date: This final rule is effective November 16, 2026.

Compliance date: States that need to amend their laws to conform and comply with the requirements of this rule must do so as quickly as possible, but no later than September 16, 2027.

FOR FURTHER INFORMATION CONTACT: Michelle E. Beebe, Administrator, Office of Unemployment Insurance, Employment and Training Administration (ETA), Department of Labor, 200 Constitution Avenue NW, Room S–4524, Washington, DC 20210, Email: *beebe.michelle.e@dol.gov,* Telephone: (202) 693–3029 (voice) (this is not a toll-free number). For persons with a hearing or speech disability who need assistance to use the telephone system, please dial 711 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Preamble Table of Contents

I. Acronyms and Abbreviations

2006 Final Rule *Federal-State Unemployment Compensation Program (UC); Confidentiality and Disclosure of State UC Information; Final Rule,* 71 FR 56830 (Sept. 27, 2006)
2023 RFI *Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of State UC Information; Request for Information,* 88 FR 47829 (July 25, 2023)
APA Administrative Procedure Act
August 2025 NPRM *Federal-State Unemployment Compensation (UC) Program; Data Availability; Proposed Rule,* 90 FR 42143 (Aug. 29, 2025)
BLS Bureau of Labor Statistics
CARES Act Coronavirus Aid, Relief, and Economic Security (CARES) Act
CFR Code of Federal Regulations
COVID–19 coronavirus disease 2019
Department *or* DOL Department of Labor
DOL–OIG DOL Office of Inspector General
E.O. Executive Order
ETA Employment and Training Administration
FR Federal Register
GAO Government Accountability Office
NPRM Notice of Proposed Rulemaking
OEWS Occupational Employment and Wage Statistics
OIRA Office of Information and Regulatory Affairs
OMB Office of Management and Budget