



## SEC Whistleblower Program Continues Record-breaking Performance Amid New Chair's Support

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The SEC whistleblower program, which newly confirmed chair Gary Gensler has pledged to strengthen and support, has continued its record-breaking performance in fiscal year 2021.

On April 23, the SEC announced two separate whistleblower awards totaling over \$3 million. This follows a \$50 million award to two joint whistleblowers on April 15, which is the second-largest award since the SEC began issuing awards in 2012. These are the latest in the more than \$250 billion awarded to whistleblowers so far in fiscal year 2021.

Under the Dodd-Frank Act, the identity of whistleblowers is kept confidential. However, the agency's redacted orders provide two important takeaways as to its reasoning when determining the amount of an award or when issuing awards. In its award of \$3.2 million to one whistleblower on April 23, the SEC noted Rule 21F-6(c)'s presumption of a maximum statutory award of 30% to awards of \$5 million or less did not apply because an unreasonable reporting delay occurred, noting the claimant waited to report four years from the date claimant first noticed certain misconduct and 17 months from the date claimant first understood there could be a securities law violation.

In the \$50 million award on April 15, the SEC denied any recovery to a third claimant because the claimant didn't provide any independent information and the agency did not rely on that claimant's information in bringing its enforcement action.

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These awards come amid changes in the program, with long-time chief of the SEC's Office of the Whistleblower, Jane Norberg, leaving the agency at the beginning of April and Emily Pasquinelli stepping in as acting chief. Prior to his recent confirmation, Gensler affirmed his support for the whistleblower program, pledging in written responses to questions by Sen. Chuck Grassley that he was committed to "reduce processing times in SEC whistleblower award determinations" and agreed "that awards should be granted in a timely manner, as whistleblowers often have to incur significant expenses and withstand significant uncertainty and distress when waiting for the SEC's determination."