

SEC INSIDER

2017 IN REVIEW: LOOKING BACK, LOOKING AHEAD

Back in November, the SEC released its [annual report](#) of the whistleblower office, revealing another record year for the agency's program. At the close of FY2017, SEC whistleblower awards surpassed \$162 million and fueled enforcement actions resulting in approximately \$1 billion in sanctions.

Having played a principal role developing the program while at the SEC, Jordan Thomas knows firsthand that leaders at the Commission and in Congress viewed the program's three pillars—monetary incentives, employment protections and the ability to report anonymously—as game changers in the battle against corporate wrongdoing. That faith and vision have translated into a gratifying reality, particularly with respect to some novel cases brought to successful resolution over the past year.

In one action underscoring the broad reach of the whistleblower program, two outside analysts represented by [Labaton Sucharow](#) tipped the SEC to misconduct at Orthofix International, which settled with the Commission for more than \$8 million. The whistleblowers could receive more than \$2.5 million in monetary awards.

KEY STATISTICS FROM THE FY2017 ANNUAL REPORT INCLUDE:

\$50M

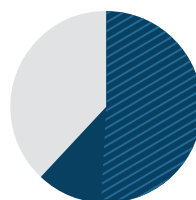
In FY 2017, the agency issued awards totaling nearly **\$50 million**, with the highest award exceeding \$20 million.



California, New York, Texas, Florida and New Jersey generated the highest number of whistleblower tips.



International submissions constituted approximately 12% of tips, with individuals in the UK, Canada and Australia generating the highest number.



62% of award recipients to date were current or former insiders of the company at issue, of which **83% reported their concerns internally first**.

4,400

The SEC received more than 4,400 tips, **an increase of nearly 50%** since FY2012.

And in cases underscoring that every whistleblower must be protected in their courageous efforts to report wrongdoing, last year the agency continued to take on companies that interfered with or retaliated against employee whistleblowers. A number of actions exposed the use of severance agreements to silence whistleblowers, in some cases requiring employees to waive their right to receive monetary awards for reporting misconduct and some explicitly barred voluntary and direct communication with the Commission.

The repugnant use of legal jockeying to silence employees is nothing new. In 2014, together with the Government Accountability Project, on behalf of more than 250 organizations, we petitioned the SEC for rule-making citing “the proliferation of increasingly creative private agreements designed to silence or otherwise limit employees’ rights to act as SEC whistleblowers with all of the incentives and protections Congress provided by statute.” In the years since, the SEC has aggressively used its authority under Dodd-Frank to take on such conduct and Labaton Sucharow expect the trend to continue in 2018.