

OSHA to Investigate Whistleblower Retaliation Complaints Under Newest Antitrust and Money Laundering Laws

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Darnesha Carter

The Occupational Safety and Health Administration (OSHA), the enforcement agency for more than 20 whistleblower statutes, is now heading up enforcement for at least two more whistleblower laws. Last Friday, the U.S. Department of Labor (DOL) announced that OSHA will be in charge of investigating complaints from whistleblowers who say they were retaliated against for assisting investigations or proceedings related to alleged antitrust or money laundering-related wrongdoing. The additional oversight comes because of the Criminal Antitrust Anti-Retaliation Act (CAARA) and the Anti-Money Laundering Act (AMLA), both of which were enacted within the last few months.

CAARA prohibits employers from retaliating against individuals who report criminal antitrust violations to the federal government or their superiors. Such retaliation includes discharge, demotion, suspension, harassment, or other discrimination.

The AMLA created a new whistleblower award program expanding incentives to those reporting possible violations of the Bank Secrecy Act. Under the AMLA, whistleblowers can file a complaint with the DOL for any retaliatory action taken and, if they do not receive a decision within 180 days, bring the complaint to a federal district court and seek a jury trial. A successful whistleblower may be reinstated and potentially receive compensatory damages, double back pay, and reasonable attorneys' fees. The AMLA's amendment to the Bank Secrecy Act has expanded greatly the options for whistleblowers alleging violations of anti-money laundering laws and potentially may create a wave of litigation and government actions, similar to what occurred in the wake of the creation of the Dodd-Frank whistleblower program.

The expansion of whistleblower rights through legislation coupled with an anticipated increase in enforcement under the Biden administration means companies should double down on compliance efforts. Now is the time to invest in additional training, audit existing policies, and properly investigate all whistleblower claims.

OSHA's investigation of CAARA and AMLA whistleblower retaliation complaints will be processed using procedures under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century until the agency issues interim final rules specific to the new acts.