

**FINAL ORDER – THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE
COMMISSION ON SEPTEMBER 7, 2021 AS TO CLAIMANT 1
PURSUANT TO RULE 21F-10(f) OF THE SECURITIES EXCHANGE ACT OF 1934**

Notice of Covered Action [REDACTED]
[REDACTED]

PRELIMINARY DETERMINATIONS OF THE CLAIMS REVIEW STAFF

In response to the above-referenced Notice of Covered Action, the Securities and Exchange Commission (“Commission”) received whistleblower award claims from [REDACTED] (Claimant 1), [REDACTED]. Pursuant to Section 21F of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 21F-10 promulgated thereunder, the Claims Review Staff has evaluated the claims in accordance with the criteria set forth in Rules 21F-1 through 21F-18. The Claims Review Staff sets forth its Preliminary Determinations for the award claims as follows.

Claimant 1

The Claims Review Staff has preliminarily determined to recommend the Commission deny Claimant 1’s claim for failure to comply with Rule 21F-10(b), which provides that a claimant’s WB-App must be received by the Office of the Whistleblower (“OWB”) within 90 calendar days of the date of the Notice of Covered Action to be considered for an award. Claimant 1’s WB-App for the Covered Action was 100 days late. Claimant 1 contends that the Commission should invoke its general exemptive authority under Section 36(a) of the Exchange Act and waive the non-compliance with Rule 21F-10(b) because Claimant 1 was unaware of the possibility of an award under the Whistleblower Program and therefore did not track the posting of Notices of Covered Action on OWB’s website.

Section 36(a) of the Exchange Act provides the Commission with broad authority to exempt any person from any provision of the Exchange Act or any rule or regulation thereunder to the extent that such exemption is (i) necessary or appropriate in the public interest and (ii) consistent with the protection of investors. In analyzing whether the standard for a Section 36(a) exemption has been met, the Commission has considered (1) whether the unique circumstances of a particular matter raise considerations and arguments substantially different from those which were carefully considered at the rulemaking proceeding, and (2) whether application of the rule in a particular matter would result in hardship, unfairness, or inequity.

Claimant 1 has not shown that an exemption under Section 36(a) is warranted. The Commission has stated that ignorance of the program and its associated deadlines does not constitute the sort of special circumstances that would justify Claimant 1’s non-compliance with

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Exchange Act Rule 21F-10(b). A potential claimant’s responsibility includes the obligation to regularly monitor the Commission’s web page for postings of Notices of Covered Actions.”¹

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹ Order Determining Whistleblower Claim, Release No. 34-91805 at 3 (May 10, 2021). Nor would Claimant 1’s purported justifications for filing a WB-APP 100 days late constitute the “extraordinary circumstances” necessary to warrant waiver under Rule 21F-8(a) of the procedural requirement of timely filing a WB-APP. *Id.* Claimant 1 does not identify any circumstances beyond [REDACTED] control that impeded [REDACTED] from timely filing a WB-APP.

² [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

³ [REDACTED]

⁴ [REDACTED]

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Notice of Covered Action

[REDACTED]

By: Claims Review Staff

Date: July 6, 2021