

Whistleblowers: The AMF will not offer any reward

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On February 18, 2016, after a thorough and rigorous analysis which included closely monitoring the rewards-based whistleblower programs offered by the [U.S.](#) and [Ontario](#), the Autorité des marchés financiers (the AMF) announced that it does not intend to offer financial rewards to whistleblowers. Instead, the AMF wishes to promote a whistleblower program that builds on existing measures.

"We are convinced that this protection, combined with anti-retaliation measures, as part of a structured, well-publicized program, will have a definite impact on the quantity and quality of wrongdoing reports made to the AMF, without the need for a reward," said Jean-François Fortin, Executive Director, AMF Enforcement.

On June 16, 2016, the Ontario Securities Commission issued a press release announcing the launch of its whistleblower program and appointed the Chief of the Office of the Whistleblower. The Ontario approach will be based on rewards (up to \$5,000,000), confidentiality and anti-retaliation provisions, in exchange for information that will lead to the success of the law's enforcement measures.

Two days ago, on June 20, 2016, the AMF in turn put its words into action by officially launching its Whistleblower Program. Contrary to Ontario, the AMF will build on an approach based strictly on confidentiality, anti-reprisal measures and anonymity for whistleblowers who denounce violations of AMF laws. The AMF persists in rejecting a rewards-based system. According to the AMF, there is no guarantee that a financial incentive generates more quality whistleblowing and the true key aspect of any whistleblower program is the protection offered to whistleblowers.

"Individuals who want to give us certain information but have hesitated for fear of reprisals can now turn to the AMF's Whistleblower Program. We invite them to use our secure whistleblower channel, which ensures that the information we receive is handled thoroughly and confidentially. Our specialized team is ready to guide whistleblowers throughout the process and ensure extra protection in the course of ensuing investigations and legal proceedings," said Louis Morisset, AMF President and CEO.

Notably, the AMF's website states that whistleblowers will benefit from informer privilege as well as immunity against possible civil suits. The AMF intends to work with the Québec government to propose anti-reprisal measures in financial sector legislation.

Finally, the AMF invites whistleblowers to use the Whistleblower Information Form available on the website to ensure quick, efficient and confidential treatment of the information by the whistleblower program staff. On the form, the whistleblower must include his/her contact information and communicate the contact details of the company and/or individuals targeted by the whistleblowing. The whistleblower must also describe the situation he/she wishes to bring to the attention of the AMF, including the relevant information and the

reasons for which he/she is reporting this situation. Finally, the whistleblower may enclose any documents he/she deems relevant.

It will be interesting to see whether the protection offered by this whistleblower program will in fact have an impact on the amount of quality whistleblowing, given that, contrary to Ontario and the United States, it does not provide any financial incentive.