

## Whistleblowers as Securities Fraud Detectors

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Amanda Rose, [Better Bounty Hunting: How the SEC's New Whistleblower Program Changes the Securities Fraud Class Action Debate](#), 108 **Nw. U. L. Rev.** 1235 (2014).

Securities fraud presents one of the more vexing challenges for financial regulators and policymakers. Each new financial crises and catastrophic fraud frequently begets new tools to fight securities fraud. In a thoughtful recent article, *Better Bounty Hunting: How the SEC's New Whistleblower Program Changes the Securities Fraud Class Action Debate*, Professor [Amanda Rose](#) examines the SEC's new whistleblower program as a tool for securities fraud detection, and explores its potential impact on the old fraud detecting tool of class action lawsuits. The motivating argument of the article is that the SEC's new Whistleblower Bounty Program (WBP) created by Dodd-Frank can serve as a superior alternative to the traditional fraud-on-the-market (FOTM) class action lawsuits as a tool for securities fraud detection and deterrence.

Professor Rose articulates this argument in a logical, measured fashion. She begins by providing background information on the origins of FOTM class actions and the WBP, which is designed to pay large sums to eligible individuals who provide valuable, original information about frauds that result in \$1 million or more of penalties. Building on that background, Professor Rose then contends that the WBP could reduce the relative benefits associated with FOTM lawsuits while increasing their relative costs thereby making them a less desirable tool to combat securities fraud. With cautious optimism, she believes that the generous bounty of the WBP and the steep costs often associated class action lawsuits could ultimately lead tipsters who are aware of securities fraud to pursue redress through the whistleblower route rather than the class action route. However, to the extent that the WBP does not function as a feasible replacement for FOTM suits, Professor Rose introduces the innovative idea of adding a qui tam provision in the current whistleblower program as a modest improvement over FOTM suits.

The success and impact of the WBP remains to be seen as the program is still in its infancy. According to the SEC's 2014 WBP report to Congress, a total of only fourteen awards have been granted since the creation of the program. That said, the SEC has received thousands of tips annually since its inception, and those tips have been increasing year to year. The long term, sustainable success of the program will depend largely on the willingness of individuals with high-quality information about securities fraud to use the program, and the program's vigilant administration by the SEC. While a more definitive verdict on the WBP remains forthcoming, Professor Rose has provided a promising, underappreciated preview of the program's full potential.

Ultimately, perfect fraud detection and deterrence in the securities marketplace is a noble but elusive goal. Securities fraud is a persistent, diverse problem that requires a diverse toolkit to solve in a better way. Traditional tools like class action lawsuits are not always the best tools for tackling the diverse variations of securities fraud in the marketplace. In the end, traditional tools like class action lawsuits will have to be complemented, refined, and possibly supplanted by new and better tools such as smart whistleblower-based solutions, as Professor Rose has skillfully articulated in her article, in order to better detect and deter securities fraud in the marketplace.

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