

Survey Shows Employees Use Internal Channels for Reporting Misconduct

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Amidst concerns that the SEC whistleblower rules will encourage employees to bypass internal protocols and take allegations of misconduct directly to the Commission, a [survey](#) by the nonprofit organization, the Ethics Resource Center, found that only one out of six employees ever reported misconduct to regulators or other outside channels, and 84% of those individuals said that they took this step only after trying to work through their companies' own procedures. Just 2% of employees surveyed initiated reporting outside of their companies and never informed their employers.

?Inside the Mind of a Whistleblower? is a recent supplement to a 2011 survey that received over 4,000 responses. For companies that want to promote an ethical culture, it may be discouraging to learn that more than 1 out of 3 employees who have observed misconduct indicated that they never made it known. The strongest motivation for reporting misconduct comes from whether the individual believed corrective action would be taken, and not surprisingly, the main reason employees failed to inform anyone was the belief that nothing would change as a result of their efforts. Fear of retaliation, and the employee's own sense of financial security (those whose earnings recently increased are more likely to report), were other factors that affected the likelihood of revealing perceived misconduct.

63% of those asked stated that the ability to make anonymous reports was a positive factor. However, a vast majority of employees sacrificed this benefit and instead first reached out to their supervisors, and another quarter initially turned to higher management. People who tend to report misconduct want problems to be fixed, and are not influenced by rewards, or bounties, offered to whistleblowers, but monetary gain does make a difference to certain employees who would otherwise not be inclined to make a report.

The organization's 2012 [survey](#) was limited to 2,100 employees at Fortune 500 companies and shows similar findings, as only 1% of respondents said that they initially reported misconduct outside of their companies. Employees at larger companies seemed to be more cognizant of possible wrongdoing, as over half of the Fortune 500 employees said they had observed misconduct in the past year, compared to 45% of employees across a larger group of U.S. companies.

Most of these employees initially approached their supervisors or higher management, with 11% contacting a hotline. However, 17% of employees then made a second report outside of their companies, generally because they were disappointed with the responses.

While the surveys were conducted after the SEC adopted its whistleblower rules, their usefulness in predicting whether employees will approach the SEC directly as permitted under those rules is limited by the broad nature of the misconduct discussed by the respondents, involving primarily workplace environment issues rather than financial reporting, and the lack of clarity surrounding when these actions were discovered and subsequently reported.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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