

Dodd-Frank Act Encourages Hedge Fund Pros to Blow Whistle on Misconduct

April 8, 2013

Despite the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”), the culture at hedge funds seems to be equal parts cynical and idealistic, according to a [recent study](#) commissioned by a New York law firm. Almost half of hedge fund professionals surveyed believe that their competitors engage in illegal activity, and almost a third of those surveyed have personally witnessed misconduct in the workplace. At the same time, almost 90 percent of hedge fund professionals surveyed said that they would blow the whistle on wrongdoing given the protections and incentives provided by [Dodd-Frank](#) and the [Sarbanes-Oxley Act](#).

Additionally, the survey discovered another figure that could be interpreted in either direction: almost 30 percent of respondents reported that it was likely they would be retaliated against if they were to blow the whistle on wrongdoing in their workplace. This means that over 70 percent of respondents did not harbor this fear. Among the study’s other discouraging findings were these: (a) 35 percent of respondents reported feeling pressured by their compensation or bonus plan to violate the law or engage in unethical conduct, and another 25 percent of respondents reported other pressures that might lead to unethical or illegal conduct; (b) over half of hedge fund professionals surveyed reported that the Securities and Exchange Commission (“SEC”) is ineffective in detecting, investigating, and prosecuting securities violations; and (c) 13 percent of respondents reported that it was necessary to engage in unethical or illegal activity to be successful, and another 13 percent responded that they would commit a crime if they could make a guaranteed \$10 million and get away with it. Some positive results from the survey were that: (a) over 90 percent of respondents said that their firms put the best interests of investors first; and (b) over 80 percent of respondents were aware of the Dodd-Frank bounty program, which can provide rewards to whistleblowers who alert the SEC or other government agencies of fraud or illegal activity at their companies. What can we take away from this survey? While almost 90 percent of respondents said that they would report illegal activity if they saw it, almost a third said that they had personally witnessed misconduct in the workplace. Given that, it’s safe to say that we have not seen 26 percent of hedge fund professionals (87 percent of 30 percent) blowing the whistle on workplace misconduct. This is likely a case where the idea of “doing the right thing” is confronted by the reality that it is very difficult to report *Dave-that-you-play-basketball-with-on-Thursdays* for insider trading. This is why those [whistleblowers](#) that do come forward are all the more impressive, and why it is all the more critical that we offer them meaningful protections against retaliation.