

## ALERT MEMORANDUM

# Whistleblowing in Focus: Recent Developments, Emerging Issues, and Considerations for Companies

January 21, 2026

## Introduction<sup>1</sup>

In this three-part series, we first discuss the outlook for whistleblower programs in the United States under the new administration. Second, we review initiatives relating to whistleblower reports in other jurisdictions over the past year. Third, we address emerging issues and considerations for companies regarding whistleblower reports.

## Part 3: Looking Ahead

As we discussed last year, as part of a broader discussion about regulating artificial intelligence (“AI”), some lawmakers and employees at AI companies have called for whistleblower protections specifically for individuals in the industry.<sup>2</sup> Efforts to encourage whistleblower reporting in the AI industry have continued over the past year. The continued expansion of whistleblower award programs and protection laws, as discussed in this series, highlights the importance of companies having effective systems for handling whistleblower reports.

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<sup>2</sup> Cleary Gottlieb, Whistleblowing in Focus: Recent Developments, Emerging Issues, and Considerations for Companies. Part Three: Looking Ahead (Jan. 23, 2025) at 2, available at <https://www.clearygottlieb.com/news-and-insights/publication-listing/whistleblowing-in-focus-recent-developments-emerging-issues-and-considerations-for-companies-part-three-looking-ahead>.



## A. Artificial Intelligence

### 1. United States

In the United States, there have been legislative efforts at the federal and state level to encourage whistleblower reporting in the AI industry. In May 2025, Senator Charles Grassley introduced the AI Whistleblower Protection Act.<sup>3</sup> The bill proposes anti-retaliation protections to current and former employees and independent contractors who report: (1) violations of federal law related to the development, deployment, or use of AI; (2) failures to “appropriately respond to a substantial and specific danger that the development, deployment, or use of [AI] may pose to public safety, public health, or national security”; or (3) failures in security that “could potentially allow emerging” AI technology to be acquired.<sup>4</sup> The introduction of the bill follows a 2024 letter from Senator Grassley to OpenAI raising concerns that non-disclosure agreements may hinder whistleblowing by employees at AI companies.<sup>5</sup>

In April and November 2025, bills were introduced in the Senate and House, respectively, to amend the Export Control Reform Act of 2018 to establish a whistleblower incentive program modeled on the

<sup>3</sup> AI Whistleblower Protection Act, S. 1792, 119th Cong. (2025), available at <https://www.congress.gov/119/bills/s1792/BILLS-119s1792is.pdf>.

<sup>4</sup> *Id.* § 2.

<sup>5</sup> See Letter from Sen. Charles E. Grassley to Sam Altman (Aug. 1, 2024), available at [https://www.grassley.senate.gov/imo/media/doc/grassley\\_to\\_openai\\_ndas.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley_to_openai_ndas.pdf).

<sup>6</sup> See Stop Stealing our Chips Act, S. 1473, 119th Cong. (2025), available at <https://www.congress.gov/119/bills/s1473/BILLS-119s1473is.pdf>; Stop Stealing our Chips Act, H.R. 6322, 119th Cong. (2025), available at <https://www.congress.gov/119/bills/hr6322/BILLS-119hr6322ih.pdf>; Press Release, U.S. Sen. Mike Rounds & U.S. Sen. Mark Warner, Rounds Introduces Legislation to Prevent Smuggling of American AI Chips into China (Apr. 10, 2025), available at <https://www.rounds.senate.gov/newsroom/press-releases/rounds-introduces-legislation-to-prevent-smuggling-of-american-ai-chips-into-china> [“Rounds & Warner Press Release”].

Securities and Exchange Commission’s (“SEC”) whistleblower program and provide anti-retaliation protections to whistleblowers.<sup>6</sup> According to the bills’ sponsors, the proposed legislation targets the illegal export of AI chips and other sensitive technologies to China.<sup>7</sup> The proposed whistleblower program would cover reports of violations of export control laws.<sup>8</sup> Reflecting the bills’ focus on export controls, the proposed legislation explicitly states that non-U.S. citizens would be eligible for awards under the whistleblower program.<sup>9</sup>

At the state level, in September 2025, California Governor Gavin Newsom signed the country’s first comprehensive state AI law, SB 53, which includes whistleblower protections. SB 53 requires large AI companies to publish their safety and security protocols, as well as results of their assessments of catastrophic risks of their technologies.<sup>10</sup> The passage of SB 53 follows an earlier AI bill, SB 1047, that was passed by the California legislature in August 2024 but was then vetoed by the Governor the following month.<sup>11</sup> SB 53 establishes whistleblower protections for employees “responsible for assessing, managing, or addressing risk of” specified “safety incidents.”<sup>12</sup> The

<sup>7</sup> Rounds & Warner Press Release, *supra* note 6; Press Release, U.S. Rep. Tom Kean Jr., Kean, Johnson Introduce Bill to Protect AI Chips, Strengthening Export Control Enforcement (Dec. 3, 2025), available at <https://kean.house.gov/media/press-releases/kean-johnson-introduce-bill-protect-american-ai-chips-strengthening-export>.

<sup>8</sup> See S. 1473 § 3; H.R. 6322 § 3.

<sup>9</sup> *Id.* Non-U.S. citizens are also eligible for awards under the SEC’s whistleblower program, although the relevant statute does not specifically address this issue. See 15 U.S.C. § 78u-6(a)(6).

<sup>10</sup> S.B. 53, 2025–26 Reg. Sess. § 2 (Cal. 2025), available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202520260SB53](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260SB53).

<sup>11</sup> S.B. 1047, 2023–24 Reg. Sess. (Cal. 2024), available at [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240SB1047](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB1047); Veto Message of Gavin Newsom, Gov. of Cal., S.B. 1047 (Sep. 29, 2024), available at <https://www.gov.ca.gov/wp-content/uploads/2024/09/SB-1047-Veto-Message.pdf>.

<sup>12</sup> S.B. 53 § 4.

protections cover whistleblower reports about a company's activities that "pose a specific and substantial danger to the public health or safety resulting from a catastrophic risk" or violations of SB 53's disclosure requirements.<sup>13</sup> SB 53 provides anti-retaliation protections to covered employees, bars company agreements or policies preventing covered employees from making whistleblower reports in accordance with SB 53, and requires that companies establish internal processes for covered employees to make anonymous reports and receive monthly status updates on the company's investigation and actions taken in response to the report.<sup>14</sup>

## 2. Europe

The European Union has also focused on encouraging whistleblower reporting in the AI industry. In November 2025, the European Commission unveiled an online whistleblower tool for its AI law, the Artificial Intelligence Act (Regulation (EU) 2024/1689) ("AI Act").<sup>15</sup> The tool allows whistleblowers to anonymously report suspected violations of the AI Act directly to the EU AI Office (instead of the competent national EU Member State authority),<sup>16</sup> which is the body within the European Commission responsible for implementing and enforcing the AI Act, in close cooperation with national EU Member State authorities.<sup>17</sup> The EU Whistleblower Directive's anti-retaliation protections only extend to reports of violations of the AI Act starting on August 2, 2026 (when certain key provisions of the AI Act are expected to become applicable).<sup>18</sup> Until then, only some AI-related activities—concerning product safety, consumer protection, privacy and personal data, or information

security—may already be covered by the Whistleblower Directive.<sup>19</sup>

## B. Corporate Compliance Program and Policy Updates

As we have discussed in Part 1 of this series, the new administration in the United States has continued the use of whistleblower award programs to incentivize whistleblower tips, while at the same time leaving in place policies that encourage companies to design and maintain effective internal compliance and reporting systems to help detect misconduct. In other jurisdictions, as we have explained in Part 2, new laws have expanded statutory protections for whistleblowers. In addition, the authorities and market regulators have recently provided guidance to companies on best practices for internal whistleblowing systems. As noted above, in response to advancements in AI technology, legislators at all levels of government have focused on encouraging whistleblower reporting in the AI industry. In this context, effective company policies, procedures, and practices relating to whistleblower reports can help companies to proactively identify and address misconduct, as well as remain compliant with laws concerning whistleblower reporting and protections.

In particular, it is important for companies to review and make enhancements as needed to:

- Internal reporting channels, including accessibility, awareness, and use;
- Handling of whistleblower reports, including processes and procedures for investigating whistleblower reports;

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<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> European Commission, Commission Launches whistleblower tool for AI Act (Nov. 24, 2025), available at <https://digital-strategy.ec.europa.eu/en/news/commission-launches-whistleblower-tool-ai-act>.

<sup>16</sup> European Commission, AI Act Whistleblower Tool (Dec. 17, 2025), available at <https://digital-strategy.ec.europa.eu/en/policies/ai-act-whistleblower-tool>.

<sup>17</sup> European Commission Decision of Jan. 24, 2024, establishing the European Artificial Intelligence Office, O.J. (C 1459) (2024), available at <https://eur-lex.europa.eu/eli/C/2024/1459/oj/eng>.

<sup>18</sup> European Commission, AI Act Whistleblower Tool, *supra* note 16.

<sup>19</sup> *Id.*

- Protections for whistleblowers, including being mindful of actions that might be seen as retaliatory; and
- Training, including on internal policies, internal reporting channels, and whistleblower protection laws.

It will also be helpful to stay up to date on developments in relevant jurisdictions, including new laws, court decisions, and enforcement actions.

## **Conclusion**

Over the past year, regulators and legislators in the United States and Europe have continued to prioritize whistleblower programs and protections. A significant new focus has emerged on encouraging reporting in the AI industry, with new legislation proposed or enacted in the U.S. at the federal and state levels and a new reporting tool launched for the EU's AI Act. These developments underscore the importance for companies, particularly those developing or using AI, to design internal reporting channels, investigation processes, and anti-retaliation policies that are robust and compliant with the evolving legal landscape.

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