owed payments will be paid on a pro rata basis until sufficient amounts become available in the Fund to pay their entire payments.

(2) Where multiple whistleblowers are owed payments from the Fund based on awards that arise from the same Notice of Covered Action (or related action), they will share the same payment priority and will be paid on a pro rata basis until sufficient amounts become available in the Fund to pay their entire payments.

§ 165.15   Delegations of authority.

(a) *Delegation of authority to the Executive Director.* The Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director or to any Commission employee under the Executive Director's supervision as he or she may designate, the authority to take the following actions to carry out this part 165 and the requirements of Section 23(h) of Commodity Exchange Act.

(1) *Delegated authority under § 165.12(a), (b).* The Executive Director's delegated authority to deposit into or credit collected monetary sanctions to the Fund and the payment of awards therefrom shall be with the concurrence of the General Counsel and the Director of the Division of Enforcement or of their respective designees.

(2) *Delegated authority to select a Whistleblower Award Determination Panel that shall be composed of three of the Commission's Offices or Divisions.* The Whistleblower Award Determination Panel shall include neither the Division of Enforcement nor the Office of General Counsel.

(b) *Delegation of Authority to Whistleblower Award Determination Panel.* The Commission hereby delegates, until such time as the Commission orders otherwise, to the Whistleblower Award Determination Panel the authority to make whistleblower award determinations under this part 165, including the determinations as whether, to whom, or in what amount to make awards. Award determinations in matters involving monetary sanctions in either the Commission's action or a related action that total more than $15,000,000 (*i.e.*, matters with a maximum potential whistleblower award greater than

$5,000,000) must be determined by the heads of the Offices or Divisions comprising the Whistleblower Award Determination Panel. In all other matters, award determinations may be determined by the employee designees of the heads of the Offices or Divisions comprising the Whistleblower Award Determination Panel.

(c) *Delegation of Authority to the Whistleblower Office.* With the exception of § 165.12, the Commission hereby delegates, until such time as the Commission orders otherwise, to the head of the Whistleblower Office the authority to take any action under this part 165 that is not otherwise delegated to either the Executive Director or the Whistleblower Award Determination Panel under this section, including the authority to administer the Commission's whistleblower program and liaise with whistleblowers.

§ 165.16   No immunity.

The Commodity Whistleblower Incentives and Protections provisions set forth in Section 23(h) of Commodity Exchange Act and this part 165 do not provide individuals who provide information to the Commission with immunity from prosecution. The fact that an individual may become a whistleblower and assist in Commission investigations and enforcement actions does not preclude the Commission from bringing an action against the whistleblower based upon the whistleblower's own conduct in connection with violations of the Commodity Exchange Act and the Commission's regulations. If such an action is determined to be appropriate, however, the Commission's Division of Enforcement will take the whistleblower's cooperation into consideration in accordance with its sanction recommendations to the Commission.

§ 165.17   Awards to whistleblowers who engage in culpable conduct.

In determining whether the required $1,000,000 threshold has been satisfied for purposes of making any award, the Commission will not take into account any monetary sanctions that the whistleblower is ordered to pay, or that is ordered against any entity whose liability is based primarily on conduct