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White Collar Defense and Investigations

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DOJ Unveils White Collar Enforcement Overhaul: New Incentives, Streamlined Policies and Expanded Whistleblower Rewards

Revisions to Department of Justice (DOJ) white collar enforcement policies provide enhanced incentives for voluntary self-disclosure and clarify the consequences of failing to disclose wrongdoing. At the same time, expanded whistleblower incentives mean that companies must be alert to a wider range of legal and regulatory risks. Companies should review their internal investigation, reporting and remediation processes in light of the changes in order to be positioned to take advantage of the new incentives and protect against new whistleblower risks.

On May 12, 2025, Matthew Galeotti, head of the DOJ's Criminal Division, issued a memorandum to all division personnel outlining the division's updated enforcement priorities. See our May 14, 2025, alert "In a New Memo, DOJ Outlines White Collar Crime Focus Areas and Prosecutorial Guidance."

The memorandum announced significant changes to three cornerstone corporate enforcement policies:

- The Corporate Enforcement and Voluntary Self-Disclosure Policy (CEP).
- The Memorandum on Selection of Monitors in Criminal Division Matters (Monitor Selection Policy).
- The Corporate Whistleblower Awards Pilot Program, which was put in place last year.

Galeotti emphasized that the DOJ is refocusing its efforts on the most egregious threats to U.S. interests, while seeking to provide greater fairness, efficiency and transparency in its dealings with law-abiding companies. The DOJ's revised enforcement plan aims to further incentivize self-disclosure, cooperation and remediation by offering clearer and more substantial benefits to companies that proactively address misconduct, while reducing the burden of lengthy investigations and unnecessary monitorships.

Below, we summarize the key updates and their implications for companies navigating DOJ enforcement risk. While the updated guidance applies only to the Criminal Division's prosecutors, it may influence the approach to corporate cases of the DOJ's other white-collar prosecutors, including those in the Antitrust Division and U.S. Attorney's Offices.

Corporate Enforcement and Voluntary Self-Disclosure Policy

The DOJ has streamlined and clarified its approach to resolving corporate criminal cases. The revised CEP provides a straightforward path to declination for companies that voluntarily self-disclose, fully cooperate, remediate and lack aggravating circumstances, with additional clarity and benefits in cases with some aggravating factors. Notably:

- **Automatic declinations for compliant companies:** Companies that voluntarily self-disclose misconduct (in a "reasonably prompt" manner), fully cooperate, remediate appropriately and promptly, and have no aggravating circumstances will now receive a declination — not merely a *presumption* of a declination as previously offered.
- **Declination possible for cases with aggravating circumstances:** Companies may be eligible for a declination where there are aggravating circumstances related to the nature and seriousness of the offense, egregiousness or pervasiveness of the misconduct within the company, severity of harm or prior criminal adjudication or resolution within the last five years based on similar misconduct. Prosecutors will weigh the severity of those aggravating circumstances against the company's cooperation and remediation efforts.
- **Incentives for post-discovery self-disclosure:** Companies that act in good faith to self-report misconduct but where that self-report does not qualify as "voluntary self-disclosure" (*i.e.*, because the DOJ already knew) remain eligible for a non-prosecution agreement (NPA) with a term of fewer than three years, a 75% reduction in the criminal fine and no requirement for a monitor. To be eligible, companies must have fully cooperated, and timely and appropriately remediated.
- **Prosecutorial discretion in other cases:** In other scenarios where companies fulfill some but not all of the self-disclosure, cooperation and remediation expectations, Criminal Division prosecutors have discretion to recommend a resolution of any form, which may include a three-year term, a monitor and up to a 50% reduction in the fine. There will be a presumption that a fine reduction will be taken from the low end of the U.S. Sentencing Guidelines range for companies that fully cooperate and timely and appropriately remediate. For other companies, prosecutors will determine the starting point in the range "based on the particular facts and circumstances of the case, including (but not limited to) the company's recidivism."
- **Merger and acquisition policy:** The CEP notes that the DOJ's Merger and Acquisition Policy applies to misconduct uncovered in the context of M&A pre- and post-acquisition due diligence. Prosecutors are instructed to apply a presumption in favor of declining prosecution when an expeditious self-disclosure (generally within 180 days) relates to misconduct that the acquiror learned of while conducting due diligence in connection with an acquisition.

Monitor Selection Policy

The Monitor Selection Policy has been recalibrated to ensure that monitorships are imposed only when their benefits outweigh their costs, with a focus on proportionality and efficiency:

- **Cost-benefit analysis:** The benefits of a monitor must outweigh both the monetary costs and the operational burdens imposed on the business.
- **Monitor necessity factors:** Prosecutors will consider (1) the nature and seriousness of the conduct and risk of recurrence, with a focus on harms to Americans and American businesses; (2) the availability and efficacy of other independent government oversight; (3) the strength of the company's compliance program and culture at the time of resolution; and (4) the maturity of the company's controls and its ability to test and update its compliance program.
- **Proportionality of costs:** A monitor's costs must be proportionate to the severity of the underlying conduct, the company's profits, and its current size and risk profile.
- **Ongoing dialogue:** During a monitorship, there must be an ongoing and open dialogue regarding progress, including at least biannual tri-partite meetings between the company, the monitor, and the government.

Corporate Whistleblower Awards Pilot Program

Building on the August 1, 2024, launch of the Corporate Whistleblower Awards Pilot Program (the Whistleblower Pilot Program), the DOJ has now expanded the program's scope to cover a broader range of corporate misconduct. The Whistleblower Pilot Program previously applied only to tips concerning certain crimes involving financial institutions, foreign and domestic corruption (including the Foreign Corrupt Practices Act), and health care fraud involving private insurance plans not covered by the False Claims Act.

Whistleblower awards are now also available for original, truthful information leading to forfeitures in cases involving:

- Violations related to cartels and transnational criminal organizations (TCOs).
- Violations of federal immigration law.
- Material support of terrorism.
- Sanctions offenses.
- Trade, tariff and customs fraud.
- Procurement fraud.

The expanded program continues to offer significant financial incentives — up to 30% of the first $100 million in net proceeds forfeited, and up to 5% of any net proceeds between $100 million and $500 million — to individuals who provide actionable information. This includes individuals who are based

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outside of the U.S. The DOJ has also reiterated its commitment to protecting whistleblower confidentiality and to investigating any retaliation or obstruction.

Key Points for Companies

The message is clear: Investing in robust compliance programs and being transparent with authorities protects against criminal liability and positions a company to benefit from the DOJ's more predictable and business-friendly enforcement posture.

- The DOJ's revised policies provide enhanced incentives for voluntary self-disclosure and robust compliance programs, while also clarifying the consequences of failing to meet these standards.
- The expansion of the Whistleblower Pilot Program means companies must be vigilant across a wider range of legal and regulatory risks. Proactive compliance and a strong internal reporting culture are more important than ever to mitigate the risk of whistleblower actions and DOJ enforcement.
- Companies should review and, where necessary, update their internal investigation, reporting and remediation processes to ensure they are positioned to take full advantage of the updated policies.

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